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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 2

[Docket No. APHIS–2011–0003]

RIN 0579–AD57

Animal Welfare; Retail Pet Stores and Licensing Exemptions; Technical Amendment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: In a final rule published in the **Federal Register** on September 18, 2013, and effective on November 18, 2013, we amended the regulations concerning the definition of *retail pet store* and related regulations in order to ensure that the definition in the regulations is consistent with the Animal Welfare Act (AWA), thereby bringing more pet animals sold at retail under the protection of the AWA. As part of that action, we raised from three to four the maximum number of female breeding dogs, cats, or certain other animals that a person can maintain and be exempted from licensing, as long as they sell only the offspring of those animals born and raised on their premises for pets or exhibition and are not otherwise required to obtain a license. In the final rule, we overlooked raising the number of breeding females in one provision in the regulations concerning animal purchases by dealers and exhibitors. This document corrects the oversight.

DATES: Effective January 23, 2015.

FOR FURTHER INFORMATION CONTACT: Dr. Gerald Rushin, Veterinary Medical Officer, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1236; (301) 851–3751.

SUPPLEMENTARY INFORMATION: In a final rule [1] that was published in the **Federal Register** on September 18, 2013 (78 FR 57227–57250, Docket No. APHIS–2011–0003), and effective on November 18, 2013, we amended the regulations concerning the definition of *retail pet store* and related regulations in order to ensure that the definition of *retail pet store* in the regulations is consistent with the Animal Welfare Act (AWA), thereby bringing more pet animals sold at retail under the protection of the AWA.

As part of that action, in § 2.1(a)(3) we changed from three to four the maximum number of female breeding dogs or cats that a person can maintain and be exempted from licensing, so long as they sell only the offspring of those animals born and raised on their premises for pets or exhibition and are not otherwise required to obtain a license. In the final rule, we overlooked raising the number of breeding females in § 2.132(d) from three to four with respect to licensing exemption provisions for persons selling cats, dogs, or certain other animals to dealers or exhibitors. This document corrects the oversight.

List of Subjects in 9 CFR Part 2

Animal welfare, Pets, Reporting and recordkeeping requirements, Research.

Accordingly, 9 CFR part 2 is amended as follows:

PART 2—REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

§ 2.132 [Amended]

■ 2. In § 2.132, paragraph (d) is amended by removing the word ''three'' and adding the word ''four'' in its place.

Done in Washington, DC, this 16th day of January 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–01149 Filed 1–22–15; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the rule, supporting analyses, and comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0003.*

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 738, 740, 742, and 758

[Docket No. 130405339–3339–01]

RIN 0694–AF72

U.S.-India Bilateral Understanding: Additional Revisions to the U.S. Export and Reexport Controls Under the Export Administration Regulations

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to further implement the bilateral understanding between the United States and India announced by President Obama and India's Prime Minister Singh on November 8, 2010. On January 25, 2011, BIS published the first rule in a series of rules to implement the bilateral understanding between the two countries. These rules fulfill the President's and Prime Minister's commitment to work together to strengthen the global nonproliferation and export control framework and further transform our bilateral export control cooperation to realize the full potential of the strategic partnership between the two countries. Specifically, in this rule, to further implement the November 8, 2010 bilateral understanding, BIS removes license requirements for certain items controlled for crime control and regional stability reasons to India. BIS also makes conforming changes in this rule.

DATES: This rule is effective January 23, 2015.

FOR FURTHER INFORMATION CONTACT: Chantal Lakatos, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Department of Commerce, by telephone: (202) 482–1739; or by email: *Chantal.Lakatos@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

U.S.-India Bilateral Understanding: Additional Revisions to the U.S. Export and Reexport Controls Under the Export Administration Regulations

On January 25, 2011, the Bureau of Industry and Security (BIS) published a final rule, the first in a series of rules, which amended the Export Administration Regulations (EAR) to implement the U.S.-India bilateral understanding (76 FR 4228, January 25, 2011) (January 25 rule). The January 25 rule and the bilateral understanding were the result of the November 8, 2010 Joint Statement issued by President Obama and Prime Minister Singh of India announcing that they had resolved to expand and strengthen the U.S.-India global strategic partnership. (U.S.-India Joint Statement, November 8, 2010). The Joint Statement covered a range of issues, activities, and programs that reflect the vision of the President and of India's Prime Minister. In the Joint Statement, the leaders reaffirmed that the U.S.-India strategic partnership is indispensable for global stability and prosperity and reaffirmed existing assurances regarding procurement and use by India of items subject to the EAR. In the Joint Statement, recognizing that India and the United States should play a leadership role in promoting global nonproliferation objectives and their desire to expand high technology cooperation and trade, the two leaders committed to work together to strengthen the global export control framework and further transform bilateral export control regulations and policies. The two nations decided to take mutual steps to expand U.S.-India cooperation in civil space, defense and other high technology sectors.

The United States' implementation of the commitment included removing Indian defense and space related entities from the Entity List, as well as realigning India in U.S. export control regulations. Additionally, the Joint Statement announced that the United States ''intends to support India's full membership in the four multilateral export control regimes (Nuclear Suppliers Group, Missile Technology Control Regime, Australia Group, and Wassenaar Arrangement) in a phased manner, and to consult with regime members to encourage the evolution of regime membership criteria . . . consistent with maintaining the core principles of these regimes, as the Government of India takes steps towards the full adoption of the regimes' export control requirements to reflect its prospective membership, with both processes moving forward together.''

The January 25 rule began the implementation of those reforms by revising certain export and reexport controls for India, including the removal of nine Indian entities from the Entity List. In addition, in the January 25 rule, BIS amended the EAR to remove India from Country Groups D:2, D:3, and D:4, and to add India to Country Group A:2 in Supplement No. 1 to Part 740. BIS also made conforming changes in the EAR.

In this rule, BIS amends the EAR to further implement the November 8, 2010 bilateral understanding between the United States and India. Specifically, this rule removes India from Crime Controls (CC) columns 1 and 3, and Regional Stability (RS) column 2 on the Commerce Country Chart in Supplement No. 1 to Part 738 of the EAR because the Government of India has now taken appropriate steps to ensure that the specific U.S.-origin items controlled for CC and RS reasons are not reexported from India without a license. However, a license requirement remains for items controlled under export control classification numbers (ECCNs) 6A003.b.4.b and 9A515.e for RS column 2 reasons when destined to India. BIS also makes conforming changes in this rule. These changes, like those in the January 25 rule, are in the national interest of the United States.

Specific Additional Amendments to the EAR Further Implementing the U.S.-India Bilateral Understanding

Part 738—Commerce Control List Overview and the Country Chart

BIS amends the EAR to remove the ''X'' in CC columns 1 and 3 and in RS column 2 for ''India'' in Supplement No. 1 to Part 738 of the EAR (Commerce Country Chart). These actions remove the license requirement for India for U.S.—origin items controlled under the EAR for CC columns 1 and 3 reasons and for RS column 2 reasons. BIS notes that the elimination of license requirements for RS column 2 items to India does not eliminate license requirements for items classified under ECCNs 6A003.b.4.b and 9A515.e.

Part 758—Export Clearance Requirements

In addition, BIS amends the EAR to establish a filing requirement in the Automated Export System (AES) for items exported to India when those items fall under an ECCN on the Commerce Control List in Supplement No. 1 to Part 774, for which CC columns 1 and 3, and RS column 2 are listed as reasons for control. Specifically, BIS amends section 758.1 of the EAR by adding new paragraph (b)(9) that requires exporters file an AES record for items controlled for CC 1 and 3 and RS 2 reasons when such items are for export to India, regardless of value.

BIS amends section 758.6 by adding new paragraph (c) requiring a notation on the invoice, bill of lading, air waybill, or other export control document that accompanies the shipment from its point of origin in the United States to the ultimate consignee or end-user in India. The notation will indicate the ECCNs of items for which CC columns 1 or 3, or RS column 2 reasons for control are listed, that they are destined to India, and that authorization may be required from the U.S. Department of Commerce for reexport of the items.

Conforming Amendments

Section 740.2 (Restrictions on All License Exceptions) and Supplement 1 to Part 738 (Commerce Country Chart)

As a conforming change to removing the license requirement for India for items controlled for CC columns 1 and 3 reasons, BIS also amends section 740.2 of the EAR to add India to paragraph (a)(4)(i). Inclusion in paragraph (a)(4)(i) identifies India as one of the countries or organizations (*i.e.,* Australia, Japan, New Zealand, or a NATO (North Atlantic Treaty Organization) member state) for which the restrictions on license exceptions due to license requirements described in section 742.7 (crime control and detection) do not apply. This status for India also broadens the availability of license exceptions under the EAR for items exported to India.

BIS also amends the EAR to make a conforming change by adding a seventh footnote to Supplement No. 1 to Part 738 to notify exporters of an AES filing requirement for CC columns 1 and 3 items, and RS column 2 items when they are intended for export to India. That footnote also notifies exporters that the elimination of license requirements for items controlled for RS column 2 reasons to India does not apply to items controlled under ECCNs 6A003.b.4.b and 9A515.e.

Section 742.6 (Regional Stability)

Finally, BIS makes conforming changes in paragraph (a)(4)(i) of section 742.6 to add India to the list of countries for which a license is not required for items controlled for RS column 2 reasons for control, while also pointing out that a license requirement remains for items controlled under ECCNs 6A003.b.4.b and 9A515.e for RS column 2 reasons when destined to India.

Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 7, 2014, 79 FR 46959 (August 11, 2014), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222, as amended by Executive Order 13637.

On January 20, 2015, the Under Secretary of Commerce for Industry and Security, pursuant to the authority delegated to him under section 6(n)(2) of the Export Administration Act, designated India as an eligible destination for export and reexport of items controlled for crime control (CC) without a license.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

2. Notwithstanding any other provisions of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB Control Number. This rule involves collections of information subject to the PRA. This collection has been approved by OMB under control numbers 0694–0088, ''Simplified Network Application Processing System,'' which includes among other things license applications and carries a burden hour estimate of 43.8 minutes for a manual or electronic application; and 0694–0122, ''Licensing Responsibilities and Enforcement,'' which carries a burden hour estimate of 5 seconds to manually or electronically complete each required export clearance document. Total burden hours associated with the PRA and OMB control numbers 0694–0088 and 0694–0122 are not expected to increase as a result of this rule.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. Pursuant to 5 U.S.C. 553(a)(1), the provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). This rule further implements the phased aspects of the understanding between the United States and India reflected in the November 8, 2010 U.S.-India Joint Statement and is not discretionary. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Accordingly, no Regulatory Flexibility analysis is required and none has been prepared. Notwithstanding these considerations, BIS welcomes public comments and will review them on a continuing basis.

List of Subjects

15 CFR Part 738

Exports.

15 CFR Parts 740 and 758

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 742

Exports, Terrorism.

Accordingly, parts 738, 740, 742, and 758 of the EAR (15 CFR parts 730–774) are amended as follows:

PART 738—[AMENDED]

■ 1. The authority citation for part 738 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

■ 2. Amend Supplement No. 1 to part 738 by:

■ a. Removing ''X'' in columns ''RS 2'' and ''CC 1 and 3'' for ''India''; and

■ b. Adding footnote designation 7 to ''India''; and

■ c. Adding footnote 7.

The addition reads as follows:

Supplement No. 1 to Part 738—Commerce Country Chart

* * * * *

[7] See § 758.1(b)(9) for an AES filing requirement for exports of CC column 1 or 3, or RS column 2 items to India. Also note that a license is still required for items controlled under ECCNs 6A003.b.4.b and 9A515.e for RS column 2 reasons when destined to India.

PART 740—[AMENDED]

■ 3. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

■ 4. Amend § 740.2 by revising paragraph (a)(4)(i) to read as follows:

§ 740.2 Restrictions on all License Exceptions.

(a) * * *

(4) * * *

(i) Being made to Australia, India, Japan, New Zealand, or a NATO (North Atlantic Treaty Organization) member state (see NATO membership listing in § 772.1 of the EAR):

* * * * *

PART 742—[AMENDED]

■ 5. The authority citation for part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 7, 2014, 79 FR

46959 (August 11, 2014); Notice of November 7, 2014, 79 FR 67035 (November 12, 2014).

■ 6. Amend § 742.6 by revising paragraph (a)(4)(i) to read as follows:

§ 742.6 Regional stability.

(a) * * *

(4) * * *

(i) *License requirements applicable to most RS Column 2 items.* As indicated in the CCL and in RS Column 2 of the Commerce Country Chart (see Supplement No. 1 to part 738 of the EAR), a license is required to any destination except Australia, India, Japan, New Zealand, and countries in the North Atlantic Treaty Organization (NATO) for all items in ECCNs on the CCL that include RS Column 2 in the Country Chart column of the ''License Requirements'' section. A license continues to be required for items controlled under ECCNs 6A003.b.4.b and 9A515.e for RS Column 2 reasons when destined to India.

* * * * *

PART 758—[AMENDED]

■ 7. The authority citation for part 758 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

■ 8. Amend § 758.1 by adding paragraph (b)(9) to read as follows:

§ 758.1 The Electronic Export Information (EEI) filing to the Automated Export System (AES).

* * * * *

(b) * * *

(9) For items that fall under ECCNs that list CC Column 1 and 3 and RS Column 2 (see Supplement No. 1 to part 738 of the EAR) as reasons for control and such items are for export, regardless of value, to India.

* * * * *

■ 9. Amend § 758.6 by adding paragraph (c) to read as follows:

§ 758.6 Destination control statements and other information furnished to consignees.

* * * * *

(c) *Additional requirement for items under ECCNs for which CC Column 1 or 3 or RS Column 2 are listed as reasons for control and are destined to India.* In addition to the DCS as required in paragraph (a) of this section, the following information must be printed on the invoice, bill of lading, air waybill, or other export control document that accompanies the shipment from its point of origin in the United States to the ultimate consignee or end-user in India: ''These items are classified under Export Control Classification Number(s) (ECCN(s)) [Fill-in the ECCNs for which CC 1 or 3 or RS 2 are listed as reasons for control] and destined to India. Authorization for reexport from India may be required from the U.S. Department of Commerce.''

Dated: January 20, 2015.

Eric L. Hirschhorn,

Under Secretary for Industry and Security.

[FR Doc. 2015–01273 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–33–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Chapter II

[Docket No. CPSC–2015–0002]

Notice of Determination Under the Drywall Safety Act of 2012

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of determination.

SUMMARY: The Consumer Product Safety Commission (CPSC, or Commission) is announcing that, pursuant to the requirements of the Drywall Safety Act of 2012 (DSA), the Commission has determined that: ASTM C1396–14a, ''Standard Specification for Gypsum Board,'' is a voluntary standard for drywall manufactured or imported for use in the United States that limits sulfur content to a level not associated with elevated rates of corrosion in the home; ASTM C1396–14a became effective less than two years after the enactment of the DSA; and ASTM C1396–14a was developed by Subcommittee C11.01 on Specifications and Test Methods for Gypsum Products of ASTM International. Based on these determinations, the sulfur content limit in ASTM C1396–14a shall be treated as a consumer product safety rule promulgated under the Consumer Product Safety Act (CPSA). Drywall manufactured or imported for use in the United States shall be subject to the general conformity certification (GCC) requirements of the CPSA.

DATES: This action becomes effective on July 22, 2015.

FOR FURTHER INFORMATION CONTACT: Rohit Khanna, Office of Hazard Identification and Reduction, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone (301) 987–2508; email *rkhanna@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

CPSC began investigating drywall in 2009, after reports from homeowners that they were seeing corrosion of metal items inside their homes. According to homeowners' reports, the items primarily involved were electrical fixtures, appliances, plumbing, and air conditioner coils. CPSC used the term ''problem drywall'' to refer to drywall associated with elevated rates of metal corrosion. After CPSC's initial investigations, CPSC joined with the U.S. Department of Housing and Urban Development (HUD), the U.S. Centers for Disease Control and Prevention (CDC), and the U.S. Environmental Protection Agency (EPA) to form the Federal Interagency Task Force on Problem Drywall (Task Force).

In the course of this investigation, samples of problem drywall were analyzed for chemical content and emissions. CPSC staff analysis of chemical content and emissions from problem drywall determined that certain brands of drywall produced around the year 2006 contain elevated levels of elemental sulfur (octahedral sulfur, S_8) and have elevated emission factors for hydrogen sulfide (H_2S) and other reactive sulfur gases known to corrode materials containing copper and silver. CPSC staff's analysis of the technical data also determined that the presence of elemental sulfur in excess of 10 ppm in drywall is associated with elevated emission factors for hydrogen sulfide (H_2S) and other reactive sulfur gases that are known to cause accelerated corrosion of copper and silver in homes.

CPSC staff and HUD relied on the results of this analysis to develop guidance materials to help homeowners identify homes with problem drywall and to correct the problem by removing and replacing the problem drywall and certain other components of the home. These guidance documents are available on CPSC's Web site.[1]

II. The Drywall Safety Act of 2012

On January 14, 2013, the President signed the Drywall Safety Act of 2012 (DSA) into law. Pub. L. 112–266, 126 Stat. 2437 (2013). The DSA established

[1] Identification Guidance for Homes with Corrosion from Problem Drywall as of March 18, 2011, by the U.S. Consumer Product Safety Commission and the U.S. Department of Housing and Urban Development *http://www.cpsc.gov//PageFiles/115328/IDguidance031811.pdf.* Remediation Guidance for Homes with Corrosion from Problem Drywall as of March 15, 2013, by the U.S. Consumer Product Safety Commission and the U.S. Department of Housing and Urban Development *http://www.cpsc.gov//Global/Safety%20Education/Safety-Information-Centers/Drywall/remediation031513.pdf.*

several requirements related to problem drywall.

The Drywall Labeling Requirement. The DSA states that 180 days after the date of enactment of the DSA, the gypsum board labeling provisions of standard ASTM C1264–11 [2] must be treated as a rule promulgated by CPSC under section 14(c) of the CPSA. ASTM uses the more technical term ''gypsum board'' to refer to the class of products that CPSC refers to as ''drywall.'' The labeling provisions in ASTM C1264–11 are currently in effect as a CPSC mandatory standard. The DSA provides a process for revision of the CPSC standard if ASTM revises the labeling provisions in the ASTM standard and notifies the Commission of the revision. To date, although ASTM has revised some provisions in ASTM C1264–11, ASTM has not revised the labeling provisions.

Revision of Remediation Guidance for Drywall Disposal Required. The DSA requires the CPSC to revise CPSC's guidance entitled ''Remediation Guidance for Homes with Corrosion from Problem Drywall'' to specify that problem drywall removed from homes pursuant to the guidance should not be reused or used as a component in the production of new drywall. CPSC revised the Remediation Guidance as directed when CPSC published a new Remediation Guidance on the CPSC Web site on March 15, 2013.

Sulfur Content Standard Requirement. The DSA requires CPSC to promulgate a final rule pertaining to drywall manufactured or imported for use in the United States within two years of the date of enactment of the DSA. The rule must limit sulfur content ''to a level not associated with elevated rates of corrosion in the home.'' As discussed below, the rulemaking requirement does not apply if the Commission makes certain determinations regarding an ASTM voluntary standard and publishes the determinations in the **Federal Register**. With this document, the Commission makes the necessary determinations.

III. Standard for Sulfur Content in Drywall

A. Determination

Section 4(a) of the DSA requires the Commission to promulgate a final rule limiting sulfur content in drywall manufactured or imported for use in the United States ''to a level not associated with elevated rates of corrosion in the home.'' The rulemaking requirement does not apply if the Commission determines that:

(a) A voluntary standard pertaining to drywall manufactured or imported for use in the United States limits sulfur content to a level not associated with elevated rates of corrosion in the home;

(b) The voluntary standard is in effect within two years of enactment the DSA; and

(c) The voluntary standard is developed by ASTM International's Subcommittee C11.01 on Specifications and Test Methods for Gypsum Products. *Id.* 4(c).

If the Commission makes such determinations, the sulfur content limit in the voluntary standard pertaining to drywall manufactured or imported for use in the United States ''shall be treated as a consumer product safety rule under section 9 of the Consumer Product Safety Act.'' *Id.* 4(d).

The Commission determines that the sulfur limit stated in section 4.7 of ASTM C1396–14a, *Standard Specification for Gypsum Board,* meets the requirements of section 4(c) of the DSA. CPSC staff worked with the relevant ASTM Subcommittee (ASTM Subcommittee C11.01 on Specifications and Test Methods for Gypsum Products) to develop a test method for elemental sulfur in gypsum products. The test method is stated in ASTM Standard C471M, Test Methods for Chemical Analysis of Gypsum and Gypsum Products (Metric). ASTM Subcommittee C11.01 then worked with CPSC staff to develop a requirement stated in section 4.7 of ASTM C1396–14a limiting the sulfur content of gypsum board. That provision requires that gypsum board must contain not greater than 10 ppm of orthorhombic cylooctasulfur (*i.e.,* elemental sulfur or ''S_8'') when tested in accordance with the test methods for Determination of S_8 in Gypsum Panel Products by Liquid Extraction for Analysis by Liquid or Gas Chromatography in sections 55–65 of ASTM C471M.

In accordance with section 4(c) of the DSA, ASTM C1396–14a is a voluntary standard pertaining to drywall manufactured or imported for use in the United States stating that gypsum board (drywall) ''shall contain not greater than 10 ppm of orthorhombic cyclooctasulfur (S_8).'' As discussed in the staff's briefing memorandum,[3] this limit on sulfur content is consistent with CPSC staff's numerous corrosion studies, which showed an association between high levels of elemental sulfur (S_8) in drywall and corrosion in the home, but no association between sulfur levels that did not exceed 10 ppm and elevated corrosion.

ASTM C1396–14a was published and became effective October 14, 2014, less than two years after enactment of the DSA. Finally, ASTM C1396–14a was developed by Subcommittee C11.01 on Specifications and Test Methods for Gypsum Products of ASTM International.

Based on these determinations the Commission finds that the requirements of section 4(c) of the DSA have been met. Accordingly, the sulfur content limit requirement stated in section 4.7 of ASTM C1396–14a is a consumer product safety rule under the CPSA.

B. Effective Date and Certification

DSA section 4(d) provides that if the Commission determines that a voluntary standard meets the requirements of section 4(c) of the DSA, the sulfur content limit stated in the voluntary standard shall be treated as a consumer product safety rule beginning on the later of:

- 180 days after publication of the Commission's determination; or
- the effective date stated in the voluntary standard.

ASTM C1396–14a took effect when the standard was published on October 14, 2014. Therefore, the sulfur content limit stated in ASTM C1396–14a shall be treated as a consumer product safety rule effective 180 days after publication of this determination in the **Federal Register**.

Section 14(a)(1) of the CPSA requires that every manufacturer of a product that is subject to a consumer product safety rule and is imported into or distributed in the United States must certify that the product complies with all applicable CPSC rules, rules, bans, standards, or regulations. 15 U.S.C. 2063(a)(1). As a product subject to a consumer product safety rule, drywall imported into or distributed in the United States will be subject to the certification requirements of section 14(a)(1) of the CPSA (15 U.S.C. 2063(a)(1)) and the Commission's certification regulations at 16 CFR part 1110 once the voluntary standard sulfur limit requirement is in effect as a consumer product safety standard. Drywall manufactured or imported on or after the effective date must comply

[2] Standard Specification for Sampling, Inspection, Rejection, Certification, Packaging, Marking, Shipping, Handling, and Storage of Gypsum Panel Products.

[3] Drywall Safety Act of 2012; Briefing Memorandum for Draft Federal Register Notice, Sulfur Content in Drywall Standard *http://www.cpsc.gov//Global/Newsroom/FOIA/CommissionBriefingPackages/2015/Drywall-Safety-Act-FR-Notice-Sulfur-Content-in-Drywall-Standard.pdf.*

with the sulfur content limits of ASTM C1396–14a and must be accompanied by a general certification of compliance (GCC).

Alberta E. Mills,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 2015–01051 Filed 1–22–15; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–400]

Schedules of Controlled Substances: Removal of Naloxegol From Control

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: With the issuance of this final rule, the Administrator of the Drug Enforcement Administration removes naloxegol ((5α,6α)-17-allyl-6-((20-hydroxy-3,6,9,12,15,18-hexaoxaicos-1-yl)oxy)-4,5-epoxymorphinon-3,14-diol) and its salts from the schedules of the Controlled Substances Act (CSA). This scheduling action is pursuant to the CSA which requires that such actions be made on the record after opportunity for a hearing through formal rulemaking. Prior to the effective date of this rule, naloxegol was a schedule II controlled substance because it can be derived from opium alkaloids. This action removes the regulatory controls and administrative, civil, and criminal sanctions applicable to controlled substances, including those specific to schedule II controlled substances, on persons who handle (manufacture, distribute, reverse distribute, dispense, conduct research, import, export, or conduct chemical analysis) or propose to handle naloxegol.

DATES: *Effective Date:* January 23, 2015.

FOR FURTHER INFORMATION CONTACT: Imelda L. Paredes, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Legal Authority

The Drug Enforcement Administration (DEA) implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. 21 U.S.C. 801–971. Titles II and III are referred to as the ''Controlled Substances Act'' and the ''Controlled Substances Import and Export Act,'' respectively, but they are collectively referred to as the ''Controlled Substances Act'' or the ''CSA'' for the purposes of this action. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), parts 1300 to 1321. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while providing for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, each controlled substance is classified into one of five schedules based upon its potential for abuse, its currently accepted medical use in treatment in the United States, and the degree of dependence the drug or other substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c) and the current list of scheduled substances is published at 21 CFR 1308. 21 U.S.C. 812(a).

Pursuant to 21 U.S.C. 811(a)(2), the Attorney General may, by rule, ''remove any drug or other substance from the schedules if he finds that the drug or other substance does not meet the requirements for inclusion in any schedule.'' The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

The CSA provides that proceedings for the issuance, amendment, or repeal of the scheduling of any drug or other substance may be initiated by the Attorney General (1) on his own motion, (2) at the request of the Secretary of the Department of Health and Human Services (HHS),[1] or (3) on the petition of any interested party. 21 U.S.C. 811(a). This action was initiated by a petition from the drug sponsor to remove naloxegol from the list of scheduled controlled substances of the CSA, and is supported by, *inter alia,* a recommendation from the Assistant Secretary of the HHS and an evaluation of all relevant data by the DEA. This action removes the regulatory controls and administrative, civil, and criminal sanctions applicable to controlled substances, including those specific to schedule II controlled substances, on persons who handle or propose to handle naloxegol.

Background

Naloxegol, or PEG-naloxol, is a new molecular entity and is a polyethylene glycolyated (PEGylated) derivative of naloxone. Its chemical names are (5α,6α)-17-allyl-6-((20-hydroxy-3,6,9,12,15,18-hexaoxaicos-1-yl)oxy)-4,5-epoxymorphinon-3,14-diol or alpha-6mPEG7-O-naloxol. Naloxegol is an antagonist predominantly of peripheral mu opioid receptors. The Food and Drug Administration (FDA) approved naloxegol for marketing on September 16, 2014, under the brand name Movantik™.[2] It is indicated for the treatment of opioid-induced constipation (OIC) in adults with chronic non-cancer pain. Gastrointestinal adverse events (AEs) effects are commonly experienced by chronic users of opioid analgesics. Opioids delay gastric emptying and intestinal transport, which over time leads to debilitating constipation. OIC is caused by activation of the mu opioid receptor in the GI tract.

DEA and HHS Eight Factor Analyses

The DEA received a petition from the drug sponsor dated March 22, 2012, requesting that the DEA amend 21 CFR 1308.12(b)(1) to exclude naloxegol as a schedule II controlled substance. The petitioner stated that naloxegol is a mu opioid receptor antagonist without mu opioid agonist or partial agonist properties. The DEA accepted the petition for filing on October 1, 2012.

On February 7, 2013 the DEA forwarded to the HHS the data with the sponsor's petition along with a request for a scientific and medical evaluation and the HHS's recommendation as to whether or not naloxegol should be removed from the list of controlled substances. According to the HHS, the sponsor submitted a New Drug Application (NDA) for naloxegol on September 16, 2013. Based on the NDA, the HHS summarized that naloxegol is an antagonist of peripheral opioid receptors for the treatment of OIC.

On August 8, 2014, the HHS provided to the DEA a scientific and medical evaluation document prepared by the FDA entitled ''Basis for the

[1] As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

[2] *http://www.accessdata.fda.gov/scripts/cder/drugsatfda/index.cfm?fuseaction=Search.DrugDetails* (last accessed Sept. 26, 2014).

Recommendation to Decontrol Naloxegol and its Salts from Schedule II of the Controlled Substances Act.'' After considering the eight factors in 21 U.S.C. 811(c), including consideration of the substance's abuse potential, legitimate medical use, and dependence liability, the Assistant Secretary of the HHS recommended that naloxegol and its salts be removed from schedule II of the CSA. In response, the DEA conducted its own eight factor analysis of naloxegol pursuant to 21 U.S.C. 811(c). Both the DEA and HHS analyses are available in their entirety in the public docket of this rule (Docket Number DEA–400) at *http://www.regulations.gov* under ''Supporting and Related Material.''

Determination To Decontrol Naloxegol

After a review of the available data, including the scientific and medical evaluation and the recommendation to decontrol naloxegol from HHS, the Deputy Administrator of the DEA published in the **Federal Register** a notice of proposed rulemaking (NPRM) entitled ''Schedules of Controlled Substances: Removal of Naloxegol from Control'' which proposed removal of naloxegol and its salts from the schedules of the CSA. 79 FR 64349, October 29, 2014. The proposed rule provided an opportunity for interested persons to file a request for a hearing in accordance with DEA regulations by November 28, 2014. No requests for such a hearing were received by the DEA. The NPRM also provided an opportunity for interested persons to submit written comments on the proposal on or before November 28, 2014.

Comments Received

The DEA received seven comments on the proposed rule to decontrol naloxegol. Five commenters supported decontrol of naloxegol. Two commenters submitted comments not related to the proposed action.

Support

Commenters in support of decontrolling naloxegol included two members of industry, a former intensive care unit (ICU) nurse, and two patient advocacy groups, all of whom expressed agreement with the DEA's findings that naloxegol does not possess abuse or dependence potential.

DEA Response: The DEA appreciates the comments in support of this rulemaking.

Request for Immediate Effective Date

Four of the commenters specifically requested that a rule decontrolling naloxegol be issued with an immediate effective date. Commenters stated that an immediate effective date was warranted because naloxegol does not have an abuse potential and is a new therapeutic option for opioid-induced constipation with no alternatives currently on the market. Additionally, a commenter distinguished this particular instance of decontrolling a substance that is not yet commercially available and thus would not result in burdens on the healthcare system or law enforcement from other DEA actions to control a substance which necessitated lead time for registrants to make necessary preparations for compliance.

DEA Response: Generally, DEA scheduling actions are effective 30 days from the date of publication of the final rule in the **Federal Register**. 21 CFR 1308.45; *see also* 5 U.S.C. 553(d). In accordance with 21 CFR 1308.45, the DEA finds that the absence of comparative effective therapeutic treatments for OIC with similar or less adverse effects than naloxegol, coupled with the fact that this is an action for decontrol, support the finding that conditions of public health require this action to be effective immediately upon publication in the **Federal Register**. Due to adverse side effects, the majority of treatment alternatives currently available for OIC have restricted clinical application. By comparison, the side effects of naloxegol have been shown to be generally mild and reversible. The addition of the polyethylene glycol group decreases the capacity of naloxegol from crossing the blood-brain barrier as compared to naloxone and is therefore expected to limit the potential for interference with centrally mediated opioid analgesia.

In making the determination to make this rule immediately effective, the DEA took into consideration the effects of immediate implementation. The DEA agrees that making this rule immediately effective is in the best interest of the public health and will not burden registrants, the healthcare system, or law enforcement. The DEA notes that its decision to make this rule immediately effective aligns with the exceptions to the 30-day effective date requirement of the Administrative Procedure Act (APA). One of the APA's exceptions to the 30-day effective date is for a substantive rule granting or recognizing an exemption or which relieves a restriction. 5 U.S.C. 553(d)(3).

Scheduling Conclusion

Based on the consideration of all comments, the scientific and medical evaluation and accompanying recommendation of the HHS, and based on the DEA's consideration of its own eight-factor analysis, the Administrator finds that these facts and all relevant data demonstrate that naloxegol does not meet the requirements for inclusion in any schedule, and will be removed from control under the CSA.

Regulatory Analyses

Executive Orders 12866 and 13563

In accordance with 21 U.S.C. 811(a), this scheduling action is subject to formal rulemaking procedures done ''on the record after opportunity for a hearing,'' which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order 12866 and the principles reaffirmed in Executive Order 13563.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132

This rulemaking does not have federalism implications warranting the application of Executive Order 13132. The rule does not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This rule does not have tribal implications warranting the application of Executive Order 13175. This rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Regulatory Flexibility Act

The Administrator, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA), has reviewed this rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. The purpose of this rule is to remove naloxegol from the list of schedules of the CSA. This action

removes regulatory controls and administrative, civil, and criminal sanctions applicable to controlled substances for handlers and proposed handlers of naloxegol. Accordingly, it has the potential for some economic impact in the form of cost savings.

Naloxegol is a new molecular entity and is not currently available or marketed in any country. According to publicly available information reviewed by the DEA, naloxegol is anticipated to enjoy patent protection for an extended period of time before generic equivalents may be manufactured and marketed in the United States. Although the number of manufacturers of naloxegol may initially be limited, there is potential for numerous handlers in various business activities, *e.g.,* distributors, hospitals/clinics, pharmacies, practitioners, etc.

This rule will affect all persons who would handle, or propose to handle, naloxegol. Due to the wide variety of unidentifiable and unquantifiable variables that potentially could influence the distribution and dispensing rates of new molecular entities, the DEA is unable to determine the number of entities and small entities which might handle naloxegol. However, the DEA estimates that all persons who would handle, or propose to handle, naloxegol are currently registered with the DEA to handle schedule II controlled substances. Therefore, the 1.5 million (1,469,418 as of September 2014) controlled substance registrations, representing approximately 426,714 entities, would be the maximum number of entities affected by this rule. The DEA estimates that 417,302 (97.8%) of 426,714 affected entities are ''small entities'' in accordance with the RFA and Small Business Administration size standards.

The DEA estimates all controlled substances registrants handle both controlled and non-controlled substances and these registrants are expected to handle naloxegol. Additionally, since prospective naloxegol handlers are likely to handle other schedule II controlled substances, the cost savings they would receive as a result of the de-control of naloxegol would be nominal. As naloxegol handlers are likely to handle other schedule II controlled substances, they will need to maintain their DEA registration and keep the same security, reporting, and recordkeeping processes, equipment, and facilities in place and would experience only a nominal reduction in security, reporting, inventory, recordkeeping, and labeling costs.

While the DEA does not have a basis to estimate the number of affected entities, the DEA estimates that the maximum number of affected entities is 426,714 of which 417,302 are estimated to be small entities. Since the affected entities are expected to handle other schedule II controlled substances and maintain security, reporting, and recordkeeping facilities and processes consistent with schedule II controlled substances handling requirements, the DEA estimates any economic impact (cost savings) will be nominal. Because of these facts, this rule will not result in a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

On the basis of information contained in the ''Regulatory Flexibility Act'' section above, the DEA has determined and certifies pursuant to the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq.,* that this action would not result in any federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted for inflation) in any one year * * *.'' Therefore, neither a Small Government Agency Plan nor any other action is required under provisions of UMRA.

Paperwork Reduction Act

This action does not impose a new collection of information requirement under the Paperwork Reduction Act, 44 U.S.C. 3501–3521. This action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Congressional Review Act

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act (CRA)). This rule will not result in: an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. However, pursuant to the CRA, the DEA has submitted a copy of this final rule to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1308 is amended to read as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. In § 1308.12, revise the introductory text of paragraph (b)(1) to read as follows:

§ 1308.12 Schedule II.

* * * * *

(b) * * *

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxegol, naloxone, and naltrexone, and their respective salts, but including the following:

* * * * *

Dated: January 16, 2015.

Michele M. Leonhart,

Administrator.

[FR Doc. 2015–01172 Filed 1–22–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 5

[Docket No. USCG–1999–6712]

RIN 1625–AB66

Revision of Auxiliary Regulations

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending and reorganizing the regulations that govern the operation and administration of the Coast Guard Auxiliary, a uniformed, volunteer, non-military organization chartered by Congress. The amendments conform the regulatory language to changes in the laws governing the Coast Guard Auxiliary; clarify the Auxiliary's organization, status, and role in Coast Guard

operations; and update provisions on liability protection for Auxiliary members assigned to Coast Guard duty.

DATES: This final rule is effective February 23, 2015.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–1999–6712 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov*, inserting USCG–1999–6712 in the ''Search'' box, and then clicking ''Search.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Stephen Minutolo, CG–BSX–11, U.S. Coast Guard Headquarters, Stop 7501, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593–7501; telephone 202 372–1267; email *hqs-dg-m-cgauxregs@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
OMB Office of Management and Budget
Pub. L. Public Law
§ Section symbol
U.S.C. United States Code

II. Regulatory History

The Coast Guard published a Notice of Proposed Rulemaking (NPRM) on May 10, 2013 (78 FR 27321). Six members of the public submitted comments on the proposed rule. Our responses to these submissions are set out in section V, below.

III. Basis and Purpose

The purpose of this final rule is to revise and reorganize the regulations governing the Coast Guard Auxiliary. The basis of this action is the Coast Guard's statutory authority to administer the Coast Guard Auxiliary in 14 U.S.C. chapters 23 and 25.

IV. Background

This final rule revises and reorganizes the regulations governing the Coast Guard Auxiliary. The Coast Guard Auxiliary regulations were last updated in 2003 (68 FR 9534, Feb 28, 2003) and 1996 (61 FR 33662, June 28, 1996), but these changes did not address all of the legislative changes being addressed in this final rule. Through this final rule, the Coast Guard updates the regulations in accordance with recent legislation; clarifies Auxiliary powers, duties, and organization; amends provisions regarding Auxiliary membership; and addresses other administrative matters. These changes address several problems common to Auxiliary units. For a more complete list of problems this rulemaking is intended to address, see section III, ''Background'' in the NPRM, which is located in the docket.

V. Discussion of Comments and Changes

The Coast Guard received six submissions from members of the public about the NPRM. The Coast Guard appreciates the commenters' time and effort to submit comments and will address each comment received. We have incorporated some of the comments into this final rule.

We have divided the comments we received into two groups: Comments from members of the public that resulted in changes to the final rule and comments from members of the public that did not result in changes to the final rule. We have also included a group that discusses administrative changes made to the rule by the Coast Guard.

Comments From Members of the Public Resulting in Changes to the Final Rule

Three commenters requested that the Coast Guard not use the term ''disenrolled'' for members who have died. The Coast Guard understands that the term ''disenrolled'' may have a negative connotation for some people. The Coast Guard respects and appreciates the contributions of every Auxiliary member who has completed their service honorably. We have removed the words ''upon death'' in § 5.19 of the final rule text relating to reasons for which a member may be disenrolled.

One commenter supported the Coast Guard's proposal to remove the 25 percent minimum ownership interest in a motorboat, yacht, aircraft, or radio station. The Coast Guard agrees that requiring a minimum ownership interest is unnecessary. The 25 percent minimum ownership interest requirement is being removed in this final rule. The remaining criteria for Auxiliary membership are set out in the Auxiliary Manual (COMDTINST M16790.1(series)).

Comments From Members of the Public Not Resulting in Changes to the Final Rule

This section addresses comments from the public requesting changes to the proposed regulatory text that the Coast Guard has decided not to adopt. For a number of the comments we received, the Coast Guard's response is that the issue is best handled in Coast Guard policy, for the reasons discussed below.

The Coast Guard received one comment suggesting that the Coast Guard clarify the restriction on Auxiliary participation in direct law enforcement. We agree that ''direct law enforcement'' should be defined as clearly and unambiguously as possible. However, the dynamic nature of Auxiliary operations and the need to amend operations policy suggest that the Auxiliary manual, not the Code of Federal Regulations (CFR), is the best place to define ''law enforcement operations.'' The Coast Guard is responsible for ensuring that Auxiliary operations are conducted safely and within the bounds of the Coast Guard and the Auxiliary's authority. The scope and nature of Auxiliary operations are constantly evolving, sometimes rapidly. Missions which would have been unimaginable just a few years ago, such as port security and air intercept training, are now part of everyday Auxiliary operations. In addition, new operational restrictions sometimes come into place very quickly. In 2001, the Auxiliary suffered an aviation mishap with the loss of two lives. To minimize the chance of future mishaps, the Coast Guard and Auxiliary adopted new restrictions for Auxiliary aviation missions within weeks of the mishap. Because of the dynamic nature of Coast Guard and Auxiliary operations and the need for the rules governing operations to be responsive, the proper place to define ''direct law enforcement'' is the

Auxiliary Operations Policy Manual (COMDTINST M16798.3(series)), not the CFR.

We received one comment requesting clarification of the term ''personal property of the Auxiliary'', particularly as it relates to licensing and insurance. ''Personal property of the Auxiliary'' is property that is owned by or under the administrative control of an Auxiliary unit and used for Auxiliary purposes. Coast Guard policy in this area is set out in the Auxiliary Manual, ALCOAST 600/05, and other Coast Guard Directives. The CFR is not the appropriate venue for addressing this matter because the rules about property owned by the Auxiliary are a matter of agency management and not subject to the Administrative Procedure Act. Therefore, we will not be incorporating the relevant Coast Guard policies into this final rule.

Two commenters expressed concern that Auxiliary membership should not be open to persons under the age of 17. Current regulations restrict Auxiliary membership to persons 17 years of age or older. The Coast Guard does not anticipate opening membership in the Auxiliary to persons under the age of 17. We proposed to remove that restriction from the CFR because minimum age for membership is a matter best addressed in Coast Guard policy. Detailed criteria for Auxiliary membership are set out in the Auxiliary Manual. This regulation change will not change the membership requirements in Section 3.A of the Auxiliary Manual.

One commenter encouraged the Coast Guard to reimburse members for travel expenses and per diem. The Coast Guard supports the maximum reimbursement allowed by law and appropriations. This final rule does not change the travel and per diem reimbursement policies of the Coast Guard.

The Coast Guard received two comments about compensation for an Auxiliarist who is injured or dies in the line of duty. One commenter noted that compensation for injury or death in the line of duty should be the same as for active duty members. This final rule continues the Coast Guard policy of providing the maximum compensation allowed by law for Auxiliary members who die or are injured in the line of duty. Another commenter suggested that the final rule specify the grade and step at which auxiliary members are compensated for injuries sustained in the line of duty. Paragraph 5.K.6.a. of the Auxiliary Manual and 14 U.S.C. 707(a) provide that members who are injured or die in the performance of duty are compensated at a rate equal to the minimum rate of basic pay in effect for grade GS–9 of the General Schedule. The Coast Guard believes this policy addresses the commenter's concern without changing the regulation.

We received two comments about membership requirements. One commenter noted that the requirements for Auxiliary membership should not be more stringent than those for membership in the active duty Coast Guard. The Coast Guard agrees. Requirements for Auxiliary membership are driven by operational need and are not more stringent than for membership in the active duty Coast Guard. One commenter requested that the Coast Guard consider admitting members who have a reenlistment code of ''RE–4'' (not eligible to reenlist). This is a policy set out in paragraph 3.A.6.g of the Auxiliary Manual, and this rulemaking does not change that policy.

One commenter suggested that the regulations on eligibility for membership include a caveat that Auxiliary membership does not entitle a permanent resident alien to expedited naturalization processing. The Coast Guard disagrees that a caveat is necessary. The commenter's concern is already addressed by 14 U.S.C. 893, which provides that Auxiliary membership does not entitle a person to additional rights or benefits except as provided by law.

One commenter expressed support for Auxiliary members acting as docents and tour guides for the Coast Guard and other federal and state property. The Coast Guard agrees. This mission has long been considered an authorized Auxiliary activity.

Changes Made by the Coast Guard

The Coast Guard is also making a limited number of changes to the proposed regulatory text.

The Coast Guard is making three changes to proposed § 5.40. First, the Coast Guard is amending § 5.40(a) to clarify that the regulations are a restatement of policy already established by Coast Guard directives. Second, the Coast Guard is amending § 5.40(b)(2) to include a description of the markings authorized on vessels, aircraft, motorized vehicles, trailers, and radio stations, which are personal property of the Auxiliary. These markings are already authorized by the U.S. Coast Guard Heraldry Manual (COMDTINST M5200.14 (series)) and paragraph 3.F.1 of the Auxiliary Operations Policy Manual. The third change is to § 5.40(b) (and in §§ 5.45, 5.46, and 5.47, which mirror the language of § 5.40). This change clarifies the rules regarding the required display of the National Ensign, the patrol sign, the patrol ensign, and the Coast Guard ensign on vessels which have been accepted as facilities. The proposed rule required that these markings be displayed when the vessel was ''assigned to Coast Guard duty.'' The final rule requires these markings be displayed when the vessel is ''on patrol.'' A strict reading of the Auxiliary Operations Policy Manual could lead a member to believe that a vessel is ''assigned to duty'' (and must display the national ensign) as soon as written orders are issued, which is not the intent of this rule. The final rule requires display of the required markings when a vessel is on patrol, which is defined in the Auxiliary Operations Policy Manual as the time from getting underway until return to the dock or launch ramp.

The Coast Guard corrected a description in § 5.44 regarding the Auxiliary facility decal, which described the slash as rising toward the hoist. A decal does not usually hang from a hoist, so the Coast Guard changed the description of the Auxiliary facility decal to read ''rising toward the viewer's right.'' There is no substantive difference in the appearance of the decal and this change will not impact the observer.

The Coast Guard is changing the definition of the term ''vessel'' in 33 CFR 5.1 to conform to the definition in the Inland Navigation Rules, 33 CFR 83.03(a). Prior to this final rule, 33 CFR 1.05 defined vessel as ''a motorboat or yacht.'' This final rule expands the definition of vessel to include small craft such as kayaks, canoes, and personal watercraft. These small craft are already being used in support of Auxiliary missions. All vessels under the current regulations will continue to meet the definition of vessel in this final rule.

The Coast Guard is amending the definition of the term ''motorboat'' in 33 CFR 5.1 to include vessels longer than 65 feet. This change allows (but does not require) the Coast Guard to accept as a facility a motorboat longer than 65 feet. All vessels meeting the definition of motorboat in the current regulations will still be considered vessels under the new rule.

The Coast Guard is amending proposed §§ 5.12 and 5.14. The purpose of this change is to clarify the proposed rule related to Auxiliary organization, including offices, titles, designations, and qualifications as ordered by the Commandant. Auxiliary members may wear the uniforms, uniform insignia, and awards that they are authorized to wear, but Auxiliary uniform insignia are

a separate system from the insignia associated with military rank. This change is a clarification of the proposed regulatory text and reflects a long-standing policy.

The Coast Guard is making these changes to §§ 5.01 5.12, 5.14, 5.40, 5.44, 5.45, 5.46, and 5.47 without further notice and opportunity to comment because these changes are within the scope of the NPRM. All of subpart E of the proposed 33 CFR part 5 is a restatement of policy which already exists in the Heraldry Manual and the Auxiliary Operations Policy Manual and was proposed in the NPRM. The changes to the definitions in § 5.1 and the rules for uniforms and insignia in §§ 5.12 and 5.14 are in sections where changes were proposed in the NPRM. Furthermore, these changes do not change the effect of the rule proposed in the NPRM.

In addition to revisions discussed above, this final rule changes two sections of the proposed rule for clarity. Because these changes only clarify existing or proposed text and will have no substantive effect on the public, notice and comment procedures are unnecessary. Therefore, the Coast Guard finds good cause exists under 5 U.S.C. 553 for forgoing an NPRM with respect to these administrative changes. These changes are described below.

In § 5.30(b)(3), the paragraph heading of the proposed rule referred to the status of ''Public vessels,'' when the section applies to vessels, aircraft, and radio stations which are owned by, in the custody of, or under the administrative jurisdiction of the Auxiliary. This section interprets 14 U.S.C. 827, 828 and 829, which provide protection against third-party damage claims to Auxiliary facilities and equipment. The paragraph heading of the final rule was revised to accurately reflect the scope of the statutory protection.

Section 5.36(a) deals with the loan of vessels, aircraft, radio stations, motorized vehicles, trailers, and other equipment. The words ''aircraft, radio station, motorized vehicle, and other equipment'' were left out of the fourth sentence and are added in the final rule.

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below, we summarize our analyses based on these statutes or Executive Orders.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This final rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, the final rule has not been reviewed by the Office of Management and Budget.

The NPRM was published in the **Federal Register** on May 10, 2013 (78 FR 27321). We received no public comments that change the substance of the requirements or the regulatory analysis embedded in that published NPRM, nor any specifics to that regulatory analysis. Therefore, we adopt the NPRM regulatory analysis as final without any changes. The NPRM regulatory analysis is replicated here for the final rule.

The final rule conforms regulatory language to statutes, codifies many existing practices, clarifies procedures, increases procedural flexibility for the Coast Guard and Auxiliarists, increases overall efficiency in the process, and re-organizes content to improve clarity. There are no costs to either the federal government or the private sector associated with these proposed changes.

This final rule applies to members and prospective members of the Coast Guard Auxiliary and people and companies that interact with the Auxiliary. The Auxiliary is a Congressionally-chartered component of the Coast Guard made up of uniformed volunteers. Auxiliary units (''flotillas'') are neither corporations nor charities and often encounter administrative trouble with banks, insurance companies, and businesses. This rulemaking clarifies for the public the nature, organization, and purpose of the Auxiliary, and conforms the regulatory language to the Auxiliary statutes, as amended by legislative changes. Many of these changes are already reflected in Coast Guard policies and manuals. For example, the financial aspects of these regulations, such as reimbursement of expenses, including the Standard Auxiliary Maintenance Allowance (SAMA), incorporate already existing practices and authorities, as detailed in the Auxiliary Manual, chapter 9 and the Auxiliary Operations Policy Manual, chapter 3 and section B–2.

These changes update our regulations to capture our current practices regarding reimbursement of Auxiliary facility expenses and maintenance costs. The payment of death gratuities to the representatives of Auxiliarists who die in the performance of duty while assigned to duty is currently funded pursuant to legislative authorization and supported by Commandant policy (COMDTINST 12550.21A, CG Death Gratuity Payment), enabling Auxiliarists to be regarded as Coast Guard employees for the purpose of death gratuity payments.

The primary benefit of this final rule is to conform regulatory language to the legislative changes described in section III, Background. This rulemaking makes it easier and more efficient for Auxiliarists to interact with banks, insurance agents, and the Coast Guard. Banks help process reimbursements (via direct deposit) for operations and other missions requiring Auxiliarists to incur an initial expense from their personal funds. Insurance agents' relationships are also important, as Auxiliarists may be reimbursed for damages to their vessels when those vessels are engaged in waterborne or airborne operational patrols.

We have classified the proposed changes into categories, as listed in Table 1. There are no costs associated with the changes.

TABLE 1—33 CFR PART 5 CATEGORIES AND DISCUSSION OF CHANGES

Proposed section	Category of change	Cost impact	Discussion of changes
§ 5.1	Revise section	None—Administrative revisions made consistent with statutory changes.	Revises the definition of ''Act'' to ''Auxiliary Act'' and to include recent statutory amendments, including the Coast Guard Authorization Act of 1996 (Pub L. 104–324), the 2002 amendment contained in the Maritime Transportation Security Act of 2002 (Pub. L. 107–295), the 2004 amendment contained in the Coast Guard and Maritime Transportation Security Act of 2004 (Pub. L. 108–293), the 2006 amendments contained in the Coast Guard and Maritime Transportation Act of 2006 (Pub. L. 109–241) and the 2012 amendments contained the Coast Guard and Maritime Transportation Act of 2012 (Pub. L. 112–213). Added parts or completed definitions for ''Personal property of the Auxiliary'' and ''Direct law enforcement''. Amended definition for ''Facility or facilities'', ''radio station'', ''vessel'', ''motorboat'', and ''Secretary''.
§ 5.3	Revise section	None—Administrative revisions made consistent with statutory changes.	Discusses Auxiliary purpose and scope of activities to conform to language in 14 U.S.C. 822, as amended in 1996.
§ 5.5	Revise and expand section.	None—Clarification of existing law	Added to clarify non-military nature of Auxiliary and composition of elected and appointed officers.
§ 5.7	Revise section	None	Describes Commandant's authority to redelegate to the Auxiliary and existing delegations.
§ 5.9	Revise section	None—Reorganization and revision to reflect current practice.	Existing contents covered in new § 5.10. New content establishes various Coast Guard directives and publications as appropriate references. Provides details of Auxiliary activities through Source 1: Auxiliary Manual and Source 2: Auxiliary Operations Policy Manual.
§ 5.10	Add section	None—Removes Barrier to Entry	New content moved from § 5.9 and revised. Eliminates minimum age and ownership requirements to remove unnecessary barriers to entry into Auxiliary. Reflects recent legislative change that authorizes eligibility for Auxiliary members to include United States nationals and aliens lawfully admitted for permanent residence.
§ 5.11	Revise section	None—Reorganization	Existing content removed as redundant of 14 U.S.C. 825; new content moved with minor edits from § 5.25.
§ 5.12	Add section	None—Reorganization	New content moved with minor edits from § 5.21.
§ 5.13	Revise section	None—Reorganization	Existing content covered by § 5.10 and published in the Auxiliary Manual, Chapter 3A. New content moved with minor edits from § 5.23.
§ 5.14	Add section	None—Reorganization	New content moved from § 5.61—Uniforms and § 5.63—Insignia and combined. See Source 1 for additional background.
§ 5.15	Reserved	None—Reorganization and Clarification.	Existing content moved to § 5.10 and revised for clarity.
§ 5.16	Add section	None—Reorganization	New content moved from § 5.55—Compensation and § 5.57—Traveling expenses and per diem and combined with minor edit.
§ 5.17	Revise section	None—Reorganization and Clarification of Current Practice consistent with statute.	Existing content moved to § 5.19. New content added to clarify the status of Auxiliarists as Federal employees only as provided for by 14 U.S.C. 823a.
§ 5.18	Add section	None—Clarification of Current Practice.	Added to clarify the benefits paid in case of injury or death while assigned to duty. In general, these benefits are currently covered in AFC–08 account for civilian pay. Procedures already in place. See Source 1, Chapter 5 Section K: Claims, Injury, or Death while Assigned to Duty and K.6.: Death of an Auxiliarist while Assigned to Duty. No new cost to the Coast Guard or Auxiliary as this is current practice.
§ 5.19	Revise section	None—Reorganization	Existing content moved to § 5.26(b); new content moved from current § 5.17.
§ 5.20	Add section	None—Reorganization, revisions to reflect current practice.	Moved from § 5.31. The Coast Guard amends this section to remove the word ''specific''. It also implements current policy on exclusion from law enforcement responsibilities and authority of Auxiliarists and recognition that status and authority of Auxiliarists in various duty assignments may be limited compared to their Coast Guard counterparts.
	Remove § 5.21	None—Reorganization	Moved to § 5.12.
§ 5.22	Add section	None—Reorganization	Existing content moved to § 5.12. New content moved from § 5.27 and 5.29 with minimal edits.
	Remove § 5.23	None—Reorganization	Moved to § 5.13.
§ 5.24	Add section	None—Current practice	Added to include information about procedures for assignment to duty of Auxiliarists and their facilities. This section codifies the language in the Auxiliary Manual.
	Remove § 5.25	None—Reorganization	Moved to § 5.11.
§ 5.26	Add section	None—Reorganization	New content moved from § 5.33. Added minor edited item from § 5.19.
	Remove § 5.27	None—Reorganization	Moved to § 5.22.

TABLE 1—33 CFR PART 5 CATEGORIES AND DISCUSSION OF CHANGES—Continued

Proposed section	Category of change	Cost impact	Discussion of changes
	Remove § 5.29 ...	None—Reorganization	Moved to § 5.22.
§ 5.30	Add section	None—Clarification of current practice.	New section with clarification of facilities' duty status. Clarification of facilities' liability status, in accordance with 14 U.S.C. 821(d)(2). New section to clarify expense reimbursement using concepts from current § 5.49.
	Remove § 5.31 ...	None—Reorganization	Moved to § 5.20.
§ 5.32	Add section	None—Reorganization	Incorporates provisions of § 5.41.
	Remove § 5.33 ...	None—Reorganization	Moved to § 5.26.
§ 5.34	Add section	None—Clarification of current practice consistent with statute.	This section is added to address offers of use personal property of the Auxiliary, pursuant to 14 U.S.C. 821. Incorporates provisions of § 5.41.
	Remove § 5.35 ...	None—Reorganization	Incorporated into § 5.36.
§ 5.36	Add section	None—Clarification of current practice.	New provision on how member-owned or unit-owned property can be loaned to the Coast Guard (no Auxiliarists onboard). Incorporates provisions from current §§ 5.35, 5.37, 5.39, 5.41, and 5.45.
	Remove § 5.37 ...	None—Reorganization	Incorporated into § 5.36.
	Remove § 5.39 ...	None—Reorganization	Moved without change to § 5.36(b).
§ 5.40	Add section	None—Clarification of current practice.	Added this new section on facility markings to ensure clarity for both the Auxiliary and public regarding the identification of Auxiliary vessels, aircraft, motorized vehicles, trailers, radio stations, and other equipment when assigned to Coast Guard duty.
§ 5.41	Revise section ...	None—Clarification of current practice.	Concept of existing section moved to §§ 5.32(c), 5.34(c), and 5.36(c). Added language to describe the Auxiliary emblem and discuss when it can be worn and used. Paragraph (b) moved from section § 5.47(c).
§ 5.42	Add section	None—Clarification of current practice.	Content moved from § 5.47. Prescribes the use of the Auxiliary ensign in accordance with Auxiliary policy.
§ 5.43	Revise section ...	None—Current practice	Existing content moved to § 5.30. Codifies the description of the Auxiliary mark from the Auxiliary Manual.
§ 5.44	Add section	None—Clarification of current practice.	Added to prescribe the use of the Auxiliary facility decal as a distinctive marking for vessels, aircraft, and radio stations that have been offered, inspected, and accepted for Coast Guard use.
§ 5.45	Revise section ...	None—Reorganization and clarification of current practice.	Concept of existing section moved to § 5.36(a). Added new content to describe the use of Auxiliary patrol signs as distinctive markings for vessels, motorized vehicles, and trailers when assigned to duty.
§ 5.46	Add section	None—Clarification of current practice.	Added to address the proper use of the Auxiliary patrol ensign. Moved part of § 5.48 to this location.
§ 5.47	Revise section ...	None—Reorganization and Current practice.	Existing content moved to §§ 5.40, 5.41, and 5.42. Codifies the display of the Coast Guard ensign as described in Auxiliary policy.
§ 5.48	Revise section ...	None—Reorganization and clarification of current practice.	Existing content moved to §§ 5.40 and 5.46. New content added to address the additional markings of Auxiliary aircraft and reflect the allowance for Auxiliary aircraft to display the Auxiliary facility decal.
	Remove § 5.49 ...	None—Reorganization	Concept moved to § 5.30.
	Remove § 5.55 ...	None—Reorganization	Moved to § 5.16.
	Remove § 5.57 ...	None—Reorganization	Moved to § 5.16.
	Remove § 5.59 ...	None—Reorganization	Moved to § 5.18(b) and (c) and revised.
	Remove § 5.61 ...	None—Reorganization	Moved to § 5.14.
	Remove § 5.63 ...	None—Reorganization	Moved to § 5.14.
	Remove § 5.65 ...	None—Current Practice	Internal policy in Auxiliary Manual Chapter 11, and in Coast Guard Medals and Awards Manual, COMDTINST M1650.25. See also 14 U.S.C. 502.
	Remove § 5.69 ...	None—Duplicative	Duplicative of 14 U.S.C. 893.

Source 1 Auxiliary Manual COMDTINST M16790.1 (series).
Source 2 Auxiliary Operations Policy Manual COMDTINST M16798.3 (series).

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this final rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule imposes no direct costs; consequently, there are no impacts on small entities to consider. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offered to assist small entities

in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This final rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (''Federalism'') if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. This rule revises and reorganizes Coast Guard regulations governing the Coast Guard Auxiliary. The rule is an exercise of authority specifically granted to the Coast Guard in chapters 23 and 25 of Title 14 (Coast Guard), U.S.C., and is a matter of internal administration. It does not prevent states from establishing local law enforcement, public safety, or response capabilities. Therefore, this rule does not have implications for federalism under Executive Order 13132.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (''Governmental Actions and Interference with Constitutionally Protected Property Rights'').

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, (''Civil Justice Reform''), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045 (''Protection of Children from Environmental Health Risks and Safety Risks''). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''), because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD (National Environmental Policy Act Implementing Procedures and Policy For Considering Environmental Impacts Manual), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370f, and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the operation and administration of the Coast Guard Auxiliary and falls under section 2.B.2, figure 2–1, paragraphs (34)(a), (b), (c), and (d) of the Instruction. These paragraphs exempt regulations which are editorial or procedural, concern internal agency functions or organization, concern the training and qualifying of maritime personnel, and concern the inspection of vessels, respectively. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 5

Volunteers.

For the reasons discussed in the preamble, the Coast Guard revises 33 CFR part 5 to read as follows:

PART 5—COAST GUARD AUXILIARY

Subpart A—General

Sec.

Subpart B—Membership

Authority: 14 U.S.C. 633, 821, 822, 823, 823a, 824, 826, 827, 828, 829, 830, 831, 832, 892.

Subpart A—General

§ 5.1 Definitions.

Certain terms used in this part are defined as follows:

Aircraft means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air.

Auxiliary means the United States Coast Guard Auxiliary established pursuant to the Auxiliary Act.

Auxiliary Act means the laws governing the Coast Guard Auxiliary, codified in chapters 23 and 25 of Title 14, United States Code (14 U.S.C. 821–894).

Commandant means the Commandant of the United States Coast Guard.

Direct Law Enforcement includes boarding a vessel for law enforcement purposes, carrying firearms or law enforcement equipment (handcuffs, pepper spray, etc.), investigating complaints of negligent operations, serving subpoenas, and covert operations. For more details see Chapter 4.E. of the Auxiliary Operations Policy Manual, COMDTINST M16798.3 (series).

Facility means a vessel, aircraft, radio station, motorized vehicle, trailer, or other equipment accepted for use by the Coast Guard.

Member means any person who is a member of the Auxiliary.

Motorboat means any documented or numbered vessel propelled by machinery.

Personal property of the Auxiliary means a vessel, aircraft, radio station, motorized vehicle, trailer, or other equipment owned by, or under the administrative jurisdiction of, the Coast Guard Auxiliary or an Auxiliary unit, and that is used solely for Auxiliary purposes and in accordance with the Auxiliary Act.

Radio station means any equipment (including a building, recreational vehicle, trailer, or other motorized vehicle which houses such equipment) used for radio communication or direction finding.

Secretary means the Secretary of the Department in which the Coast Guard is operating.

Vessel means any water craft, including non-displacement craft and seaplanes, used, or capable of being used, as a means of transportation on water.

Yacht means either—

(1) Any documented or numbered vessel used exclusively for pleasure; or

(2) Any sailboat used exclusively for pleasure more than 16 feet in length measured end-to-end over the deck, excluding sheer.

§ 5.3 Purpose.

(a) The Auxiliary is a uniformed, volunteer, non-military organization administered by the Commandant under the direction of the Secretary.

(b) The purpose of the Auxiliary is to assist the Coast Guard, as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.

(c) Auxiliary units assist the Coast Guard in maintenance and upkeep, and in conducting tours of Coast Guard and other Federal- or State-owned structures and property.

(d) The Auxiliary assist Federal, State, and municipal agencies, as authorized by the Commandant.

§ 5.5 Organization, officers, and leadership.

(a) The Coast Guard Auxiliary is organized pursuant to the Auxiliary Act and Coast Guard regulations. Organizational elements include a national board and staff, national leadership, areas, districts, regions, divisions, and flotillas. A flotilla is the basic organizational unit of the Auxiliary.

(b) The Auxiliary has elected and appointed officers.

(1) Elected officers are in charge of Auxiliary units and elements at both the national and local levels of the Auxiliary organization. The Unit Leader is the senior elected officer at each level of the Auxiliary organization: Flotilla Commanders, Division Commanders, District Commodores, and the National Commodore are unit leaders.

(2) Appointed officers are appointed by elected officers and hold staff positions in Auxiliary units at both the national and local levels of the Auxiliary organization.

(c) For all Auxiliary units, the Unit Leader is the person authorized to exercise the authority set forth in § 5.7 on behalf of his or her unit, and may delegate that authority.

(d) For all Auxiliary units, the Finance Officer is the person authorized to handle, transfer and disburse bank accounts, monies, stocks, bonds, and other items of intangible personal property on behalf of his or her Auxiliary Unit.

§ 5.7 Administration, specific authorizations.

(a) The Commandant may delegate any authority vested in him or her by the Auxiliary Act or by this part to personnel of the Coast Guard and members of the Auxiliary in the manner and to the extent as the Commandant deems necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

(b) The Commandant has authorized Auxiliary Unit Leaders to take the following actions in furtherance of the authorized missions of the Auxiliary. This is not an exclusive list—

(1) Acquire, own, hold, use, and dispose of vessels, aircraft, motorized vehicles, trailers, radio stations, electronic equipment and other items of tangible, personal property;

(2) Accept ownership, custody, or use of vessels, boats, aircraft, radio stations, motorized vehicles, trailers, electronic equipment, and other tangible property from the Coast Guard, from other Federal, State, or municipal agencies, or from private or non-profit groups;

(3) Create and manage bank accounts, monies, stocks, bonds, and other financial instruments;

(4) Accept and use gifts, grants, legacies, and bequests;

(5) Accept funds, materials, services, and the use of facilities from public and private entities and Federal, State, or municipal agencies;

(6) Enter into licenses, leases, contracts, memoranda of agreement, or understanding, and other agreements; and

(7) Enter into cooperative agreements and grant agreements with the Coast Guard and other Federal, State, or municipal agencies.

(c) The national board of the Auxiliary may form a corporation under State law and Coast Guard policy to manage the Auxiliary's fiscal affairs. The national corporation may—

(1) Hold copyrights, trademarks, and titles to Auxiliary property;

(2) Contract with the Coast Guard and other Federal, State, and municipal agencies to procure such goods and services;

(3) Receive grants, gifts, and other items on behalf of the Auxiliary; and

(4) Conduct other activities as may be authorized by the Commandant.

(d) An Auxiliary district or region may form a corporation under State law and Coast Guard policy.

§ 5.9 References.

Further guidance on Auxiliary missions and activities may be found in Coast Guard directives and publications, including the Auxiliary Manual (Commandant Instruction M16790.1(series)) and the Auxiliary Operations Policy Manual (Commandant Instruction M16798.3(series)). Those directives and publications can be found online at *http://www.uscg.mil/auxiliary/publications/comdtinst/.*

Subpart B—Membership

§ 5.10 Eligibility for membership.

(a) To be eligible for membership in the Auxiliary, a person must—

(1) Be a United States citizen, a national of the United States or of its Territories and possessions, or an alien lawfully admitted for permanent residence; and

(2) Meet the standards for enrollment, retention, and conduct established by the Commandant.

(b) An applicant who is accepted for membership will be enrolled in the Auxiliary and will be issued a membership certificate and identification card. Possession of a membership certificate or identification card does not entitle a person to any rights or privileges of the Coast Guard or the Coast Guard Reserve except as authorized by the Commandant.

§ 5.11 Honorary members.

The Commandant may grant any person honorary membership in the Auxiliary. An honorary member of the Auxiliary, solely by reason of such honorary membership, is not entitled to any of the rights, benefits, privileges, duties, or obligations of Auxiliary membership.

§ 5.12 Offices, titles, designations, qualifications, and recognition.

Members of the Auxiliary will have such offices, titles, designations, qualifications, and recognition for achievements as prescribed by the Commandant.

§ 5.13 Advancement.

The Commandant will prescribe the circumstances and qualifications under which members of the Auxiliary may be advanced in offices and programs.

§ 5.14 Uniforms and insignia.

(a) Members of the Auxiliary are authorized to wear uniforms, uniform insignia, and awards as prescribed by the Commandant. Auxiliary uniform insignia indicate, and are solely associated with, Auxiliary offices, titles, designations, qualifications, and achievements. Auxiliary uniform insignia do not indicate rank in any military service or government agency.

(b) Members of the Auxiliary may purchase from the Coast Guard such uniforms, insignia, and awards as may be authorized by the Commandant.

§ 5.15 [Reserved]

§ 5.16 Compensation and travel expenses.

(a) Except as provided in paragraph (b) of this section, no member of the Auxiliary will receive any compensation for services as a member of the Auxiliary.

(b) A member of the Auxiliary may be paid actual necessary travelling expenses, including a per diem allowance.

§ 5.17 Status of members as Federal employees.

Members of the Auxiliary are not considered Federal employees except as provided by 14 U.S.C. 823a or other provisions of law.

§ 5.18 Injury or death in the line of duty.

(a) The performance of duty, as the term is used in this part, includes time spent in the performance of duty, travel between duty locations, and travel between a place of assigned duty and either the Auxiliarist's permanent residence or other appropriate non-duty destination.

(b) A member of the Auxiliary who incurs physical injury or contracts sickness or disease in the performance of duty is entitled to medical and dental care until the resulting impairment cannot be materially improved by further hospitalization or treatment. A member of the Auxiliary who incurs physical injury or contracts sickness or disease in the performance of duty is entitled to obtain medical care from the Coast Guard, including through Coast Guard arrangements with a contract provider, the Public Health Service, the Department of Defense, or a Veterans' Administration facility.

(c) If a member of the Auxiliary is physically injured or dies as a result of physical injury, and the injury is incurred in the performance of duty, the member or the member's beneficiaries are authorized to receive compensation in accordance with 14 U.S.C. 707, 5 U.S.C. 8133 and 8134 and section 651 of Public Law 104–208 (5 U.S.C. 8133 Note).

§ 5.19 Disenrollment.

A member of the Auxiliary will be disenrolled on the member's request, upon ceasing to possess the qualifications for membership, for cause, or upon direction of the Commandant.

Subpart C—Activities, Operations, and Training

§ 5.20 Authority.

(a) Except as provided in paragraphs (b) and (c) of this section, or otherwise limited by the Commandant, members of the Auxiliary assigned to duty will have the same authority in that duty's execution as a member of the Coast Guard who is assigned to a similar duty.

(b) Members of the Auxiliary are not authorized to engage in direct law enforcement or military missions.

(c) Members of the Auxiliary are not authorized to enforce limited access areas, regulated navigation areas, or special local regulations. Members of the Auxiliary assigned to patrol limited access areas, regulated navigation areas, or areas regulated under special local regulations may advise the public regarding compliance with the limited access area, regulated navigation area, or areas regulated by special local regulations.

§ 5.22 Assignment to duties.

Members of the Auxiliary will not be assigned duties until they have been found to be competent to perform such duties and have been designated by authority of the Commandant to perform such duties.

§ 5.24 Procedure for assignment to duty.

Members and facilities may be assigned to duty by any of the following procedures:

(a) Verbal or written orders issued by competent Coast Guard authority;

(b) The actual performance of an authorized activity or mission by a qualified member of the Auxiliary; or

(c) Other procedures as designated by the Commandant.

§ 5.26 Training, examination, and assignment.

(a) The Commandant will prescribe, through the Coast Guard Auxiliary directives referenced in § 5.9, the type of training, qualifications, and examinations required before a member of the Auxiliary will be deemed qualified to perform certain duties, and will prescribe the circumstances and manner in which members of the Auxiliary will be authorized to perform regular and emergency duties.

(b) The Commandant may authorize members of the Auxiliary to pursue correspondence courses and distance-learning courses conducted by the Coast Guard Institute or other authorized Coast Guard providers and to attend other courses and training available to members of the Coast Guard or Coast Guard Reserve.

Subpart D—Facilities and Other Equipment

§ 5.30 Facilities and other equipment.

(a) This subpart contains regulations related to the facilities and other equipment used by the Auxiliary or loaned by the Auxiliary to the Coast Guard.

(b) *Status*—(1) *Duty.* Personal property of the Auxiliary, except when used for other than Auxiliary purposes in accordance with 14 U.S.C. 822, will be considered assigned to authorized Coast Guard duty at all times.

(2) *Liability.* Personal property of the Auxiliary, except when used for other than Auxiliary purposes in accordance with 14 U.S.C. 822, will be treated as property of the United States for the purposes of the Federal Tort Claims Act, the Military Claims Act, the Public Vessels Act, the Suits in Admiralty Act, the Admiralty Extension Act, and other matters related to non-contractual civil liability. Personal property of the Auxiliary is not normally covered for damage to the property itself.

(3) *Federal status of facilities and other equipment.* A vessel, aircraft, or radio station owned by, in the custody of, or under the administrative jurisdiction of the Auxiliary will be considered a public vessel of the United States, public vessel of the Coast Guard, public aircraft, Coast Guard Aircraft, and/or government station, in accordance with federal law.

(c) *Expenses.* (1) The Coast Guard may reimburse expenses related to the use, operation, or maintenance of a facility.

(2) The Coast Guard may reimburse expenses for damage or loss to or by a facility, including remediation, restoration, repair, replacement, or salvage costs.

(3) The Coast Guard may provide an allowance for the maintenance of a facility.

§ 5.32 Offers of member-owned vessels, aircraft, radio stations, motorized vehicles, trailers, and other equipment for use as a facility.

(a) Members of the Auxiliary wishing to offer vessels, aircraft, radio stations, motorized vehicles, trailers, or other equipment for use as a facility must follow the procedures set forth in the Auxiliary Operations Policy Manual referenced in § 5.9.

(b) Upon acceptance of the vessels, aircraft, radio stations, motorized vehicles, trailers, or other equipment as a facility, the Coast Guard will issue to the member the appropriate numbers and decals identifying the facility as a Coast Guard Auxiliary facility.

(c) In an emergency, vessels, aircraft, radio stations, motorized vehicles, trailers, or other equipment may be accepted by the Coast Guard without an inventory or the use of the prescribed forms.

§ 5.34 Offers of personal property of the Auxiliary for use as a facility.

(a) Auxiliary units wishing to offer personal property of the Auxiliary (usually unit-owned property) for use as a facility must follow the procedures set forth in the Auxiliary Operations Policy Manual referenced in § 5.9.

(b) Upon acceptance of the personal property of the Auxiliary as a facility, the Coast Guard will issue to the Auxiliary unit the appropriate numbers and decals identifying the facility as a Coast Guard Auxiliary facility.

(c) In an emergency, personal property of the Auxiliary may be accepted by the Coast Guard without an inventory or the use of prescribed forms.

§ 5.36 Loan of vessels, aircraft, radio stations, motorized vehicles, trailers, or other equipment to the Coast Guard.

(a) A vessel, aircraft, radio station, motorized vehicle, trailer, or other equipment may be loaned to the Coast Guard for a specific period, and must be returned at the expiration of that period, unless circumstances or an emergency make the return impracticable at that time. The Commandant will determine the method, time, and documents to be exchanged upon the return to the owner of any facility. The property will be re-inventoried as of the time, date, and place of re-delivery, and mutually settled by the owner and the Coast Guard representative. If the vessel, aircraft, radio station, motorized vehicle, trailer, or other equipment was accepted during an emergency, any claim for lost equipment or stores must be supported by invoices showing the date of purchase and the cost thereof by the person submitting the claim. The Coast Guard representative will take all proper precautions to protect the owner's interest, as well as that of the United States.

(b) Except as permitted in paragraph (c) of this section, no vessel, aircraft, radio station, motorized vehicle, trailer, or other equipment will be deemed loaned to the Coast Guard until an acceptance, on the prescribed form, has been signed on behalf of the Coast Guard by a person authorized by the Commandant to sign such an acceptance and a complete inventory of consumable and expendable stores and equipment has been made and mutually settled by the owner and the Coast Guard representative.

(c) In an emergency, a vessel, aircraft, radio station, motorized vehicle, trailer, or other equipment may be loaned to Coast Guard without an inventory or the use of the prescribed form.

Subpart E—Auxiliary Markings

§ 5.40 Distinctive markings for vessels, aircraft, motorized vehicles, trailers, radio stations, and other equipment.

(a) This subpart describes the design and display of distinctive markings used by Auxiliary vessels, aircraft, motorized vehicles, trailers, radio stations, and other equipment. These markings are established in the directives referenced in § 5.9 and the U.S. Coast Guard Heraldry Manual (COMDTINST M5200.14(series)).

(b) *Auxiliary markings on vessels, aircraft, motorized vehicles, trailers, radio stations and other equipment.* (1) Vessels, aircraft, motorized vehicles, trailers, radio stations, and other equipment which are owned by Auxiliary members, or are personal property of the Auxiliary, or are otherwise affiliated with the Auxiliary may display the Auxiliary emblem (§ 5.41), the Auxiliary ensign (§ 5.42), and/or the Auxiliary mark (§ 5.43).

(2) Vessels, aircraft, motorized vehicles, trailers, radio stations, and other equipment which are personal property of the Auxiliary may be marked ''U.S. COAST GUARD AUXILIARY'', ''U.S. COAST GUARD AUX'', or ''USCGAUX'' in accordance with Coast Guard policy.

(3) Vessels, aircraft, motorized vehicles, trailers, radio stations, and other equipment which have been accepted as facilities shall display the Auxiliary facility decal (§ 5.44).

(4) Vessels that have been accepted as facilities and are on patrol, whether or not they are underway, shall display the

National Ensign, the patrol sign (§ 5.45) and either the patrol ensign (§ 5.46) or the Coast Guard ensign (§ 5.47) as appropriate and able.

(5) Vessels that have been accepted as facilities and are on patrol, whether or not they are underway, and have a Coast Guard commissioned, warrant, or non-commissioned officer onboard shall display the Coast Guard ensign in place of the patrol ensign.

(c)(1) Any person who desires to reproduce Coast Guard Auxiliary markings for non-Coast Guard Auxiliary use must obtain approval from Commandant (CG–BSX–11), Attn: Auxiliary Division, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593–7501.

(2) Unauthorized use of Auxiliary markings is subject to the penalties of 14 U.S.C. 638, 639 and 892.

§ 5.41 Auxiliary emblem.

(a) *Description.* The Auxiliary emblem consists of a disk with the shield of the Coat of Arms of the United States circumscribed by an annulet edged and inscribed ''U.S. COAST GUARD AUXILIARY'', all in front of two crossed anchors.

(b) *Display.* The Auxiliary emblem is used as identification on Auxiliary ensigns, flags, pennants, decals, and patrol signs. The emblem is used on Auxiliary insignia, such as the member collar device, cap device, and Auxiliary aviator, coxswain, and Auxiliary Operator (AUXOP) devices, and on publications, stationery, clothing, and jewelry.

§ 5.42 Auxiliary ensign.

(a) *Description.* The field of the Auxiliary ensign is medium blue (Coast Guard blue) with a broad diagonal white slash upon which a matching blue Coast Guard Auxiliary emblem is centered. The white slash must be at a 70 degree angle, rising away from the hoist.

(b) *Display.* The Auxiliary ensign may be displayed by any member of the Auxiliary on a vessel, aircraft, radio station, building, or other location at any time, under such conditions as the Commandant may direct.

§ 5.43 Auxiliary mark.

(a) *Description.* The Auxiliary mark consists of a broad diagonal blue stripe followed (to the left or aft) by two narrow stripes—first a white stripe, and then a red stripe. The Auxiliary emblem, as described in § 5.41, is centered in the diagonal blue stripe.

(b) *Display.* The Auxiliary mark is used to identify personal property of the Auxiliary and on Coast Guard Auxiliary authorized publications, stationery, jewelry, and similar items.

§ 5.44 Auxiliary facility decal.

(a) *Description.* The Auxiliary facility decal is composed of two parts. The upper part is a conventional white shield with a medium blue (Coast Guard blue) Coast Guard Auxiliary emblem centered on a broad diagonal red (Coast Guard red) slash which is at a 70 degree angle, rising toward the viewer's right. The red (Coast Guard red) slash is followed, on the viewer's left, by two narrow, parallel stripes—first a white stripe, and then a medium blue (Coast Guard blue) stripe. The entire design is centered on the shield. The lower part displays two laterally radiating wreath branches centered immediately beneath the shield. A broad diagonal red (Coast Guard red) slash, which is at a 70 degree angle, rising toward the viewer's right and followed, on the viewer's left, by two narrow, parallel stripes, first a white stripe and then a medium blue (Coast Guard blue) stripe, is displayed on the wreath's right-hand branch.

(b) *Display.* Vessels, aircraft, motorized vehicles, trailers, radio stations and other equipment accepted for use by the Coast Guard must display the Auxiliary facility decal as authorized in the Auxiliary Operations Policy Manual referenced in § 5.9.

(1) On vessels, the decal must be displayed on the port side of the vessel so as to be visible by another vessel when meeting such vessel in a port-to-port situation.

(2) On aircraft, the decal must be displayed on the pilot's side of the forward half of the aircraft.

(3) On radio facilities, the miniature decal must be displayed on the radio, and the full-size decal must be displayed on the exterior or interior of the building or trailer in which the radio is housed, or, in the case of mobile radios, on any legal place on the motor vehicle in which the radio is contained.

(4) On motorized vehicles, trailers and other equipment, the decal must be displayed on a clearly visible exterior location.

§ 5.45 Patrol sign.

(a) *Description.* The Auxiliary facility patrol sign has the words ''Coast Guard Auxiliary Patrol'' in black or dark blue lettering and must contain the Auxiliary emblem, as described in this subpart, centered within the confines of a broad diagonal red (Coast Guard red) stripe which is at a 70 degree angle rising toward the bow of the vessel. The red (Coast Guard red) stripe is followed, away from the bow, by two narrow, parallel stripes—first a white stripe, and then a medium blue (Coast Guard blue) stripe. The background of the sign must be white.

(b) *Display.* (1) The patrol sign must be displayed by vessels while on patrol, whether or not the vessel is underway.

(2) The patrol sign must be displayed on the forward half of each side and may be displayed on the stern of the vessel.

(3) The patrol sign may be displayed on each side of a motorized vehicle or trailer containing a mobile radio or radio direction finding unit while assigned to Coast Guard duty. Normally, they will be placed in any legal position on the upper half of both sides of the vehicle.

§ 5.46 Auxiliary patrol ensign.

(a) *Description.* The field of the Auxiliary patrol ensign is white. A medium blue (Coast Guard blue) Coast Guard Auxiliary emblem is centered on a broad diagonal red (Coast Guard red) slash which is at a 70 degree angle, rising toward the hoist. The red (Coast Guard red) slash is followed, away from the hoist, by two narrow, parallel stripes—first a white stripe, and then a medium blue (Coast Guard blue) stripe. The entire design is centered on the ensign.

(b) *Display.* Vessels that have been accepted as facilities shall display the Auxiliary patrol ensign when on patrol, whether or not the vessel is underway. The Auxiliary patrol ensign must be displayed at the mast head or from the most conspicuous hoist.

§ 5.47 Coast Guard ensign.

(a) *Description.* The Coast Guard ensign is described in 33 CFR 23.15.

(b) *Display.* Vessels that have been accepted as facilities and that have a Coast Guard commissioned, warrant or non-commissioned officer onboard shall display the Coast Guard ensign in place of the Auxiliary patrol ensign while on patrol, whether or not the vessel is underway. The Coast Guard ensign must be displayed at the mast head or from the most conspicuous hoist.

§ 5.48 Marking of aircraft.

(a) Aircraft owned by members of the Auxiliary or that are personal property of the Auxiliary may also display the Auxiliary emblem on both sides of the vertical stabilizer (outside of the stabilizer for twin tail aircraft) or on both sides of the fuselage aft of the wing.

(b) Aircraft which are accepted as facilities may be marked with the Auxiliary mark (§ 5.43) and/or the word ''RESCUE'' on the underside of the wing or fuselage for easier identification from the ground.

Dated: January 16, 2015.

J.C. Burton,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2015–01045 Filed 1–22–15; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2013–0226; FRL–9914–77]

Flupyradifurone; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of flupyradifurone in or on multiple commodities which are identified and discussed later in this document. Bayer CropScience requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective January 23, 2015. Objections and requests for hearings must be received on or before March 24, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2013–0226, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2013–0226 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before March 24, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2013–0226, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of June 5, 2013 (78 FR 33785) (FRL–9386–2), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2F8101) by Bayer CropScience LP, 2 T.W. Alexander Dr., P.O. Box 12014, Research Triangle Park, NC 27709. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]-2(5*H*)-furanone, and its metabolites, difluoro acetic acid (DFA) and 4-[(2,2-difluoroethyl)amino]furan-2(5*H*)-one (DFEAF), in or on the following commodities: Aspirated grains fractions at 40 parts per million (ppm); root vegetables except sugar beets (crop subgroup 1B) at 1.5 ppm; tuberous and corm vegetables (crop subgroup 1C) at 0.5 ppm; onion, bulb, subgroup, (crop subgroup 3–07A) at 0.3 ppm; onion, green, subgroup, (crop subgroup 3–07B) at 3 ppm; leafy vegetable, except *Brassica* vegetables (crop group 4) at 40 ppm; taro leaves at 40 ppm; head and stem *Brassica* (crop subgroup 5A) at 6 ppm; leafy *Brassica* greens (crop subgroup 5B) at 40 ppm; turnip greens at 40 ppm; edible-podded legume vegetables (crop subgroup 6A) at 5 ppm; succulent, shelled pea and bean (crop subgroup 6B) at 4 ppm; dried, shelled pea and bean (except soybean) (crop subgroups 6C) at 6 ppm; foliage of legume vegetables, including soybeans (crop group 7), forage, green vines at 40 ppm; foliage of legume vegetables, including soybeans (crop group 7), hay at 50 ppm; soybean, seed at 4 ppm;

fruiting vegetables, except cucurbits (crop group 8–10), fruit at 3 ppm; tomato, paste at 4 ppm; cucurbit vegetables (crop group 9), fruit at 2 ppm, citrus fruits (crop group 10–10), fruit at 3 ppm; citrus, pulp, dried at 15 ppm; pome fruits (crop group 11–10), fruit at 1.5 ppm; bushberry subgroup (crop subgroup 13–07B) at 4 ppm; small fruit vine climbing subgroup, except fuzzy kiwifruit (crop subgroup 13–07F) at 3 ppm; grapes, raisin at 6 ppm; low growing berry subgroup (crop subgroup 13–07G) at 1.5 ppm; tree nuts (crop group 14), nutmeat at 0.15 ppm; pistachio at 0.15 ppm; tree nuts (crop group 14), hulls at 15 ppm; grain, cereal, (crop group 15), except rice; grain at 4 ppm; sweet corn, kernels plus cobs with husks removed (k+cwhr) at 0.4 ppm; wheat, bran at 5 ppm; rice, grain (rotational crop) at 4 ppm; grain, cereal, forage, fodder and straw, group 16, forage at 20 ppm; grain, cereal, forage, fodder and straw, group 16, hay at 40 ppm; grain, cereal, forage, fodder and straw, group 16, straw at 30 ppm; grain, cereal, forage, fodder and straw, group 16, stover at 15 ppm; cotton, undelinted seed, (crop subgroup 20C) at 0.9 ppm; cotton, gin by-products at 40 ppm; nongrass animal feeds, forage, (crop group 18) at 20 ppm; nongrass animal feeds, hay, (crop group 18) at 40 ppm; coffee, bean, green at 2 ppm; coffee, bean, roasted; instant at 3 ppm; hops at 20 ppm; peanut, hay at 30 ppm; peanut, nutmeat at 0.15 ppm; prickly pear cactus, fruit; at 0.5 ppm; pitaya, fruit at 0.5 ppm; prickly pear cactus, pads at 0.9 ppm; cattle, goat, hog, horse, sheep fat at 0.5 ppm; cattle, goat, hog, horse, sheep meat at 1 ppm; cattle, goat, hog, horse, sheep, meat byproducts at 2 ppm; milk at 0.3 ppm, poultry, eggs at 0.3 ppm, poultry, meat at 0.5 ppm; poultry, meat byproducts at 0.5 ppm.

That document referenced a summary of the petition prepared by Bayer CropScience, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has revised the proposed commodity definitions and altered tolerance levels for different commodities. EPA has reviewed the available residue data and has determined the appropriate tolerance levels for residues of flupyradifurone. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . ..''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for flupyradifurone, including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with flupyradifurone, follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Flupyradifurone (BYI 02960) is a new butenolide insecticide. The most sensitive effects seen in the flupyradifurone database were skeletal muscle atrophy/degeneration in dogs. With repeated dosing, reductions in body weight and food consumption were commonly seen in various studies and in all species of test animals (rats, mice, dogs, and rabbits). The liver and thyroid were shown to be the common findings of flupyradifurone toxicity. The database appears to suggest that dogs are more sensitive to the effects of flupyradifurone; however, with body weight adjustments (based on a ¾ scaling factor), the dog and rat are almost equally as sensitive in response to flupyradifurone toxicity. The skeletal muscle atrophy/degeneration seen in the 90-day and 1-year dog studies formed the basis for chronic dietary exposure toxicity endpoints.

The developmental toxicity study in rats demonstrated no evidence of susceptibility in developing animals. In the rabbit developmental toxicity study, there was an increase in the incidence of fetal death at 80 milligram/kilogram/day (mg/kg/day) (the highest dose tested), a dose that did not produce adverse effects in the maternal animals. Therefore, a quantitative increase in susceptibility was demonstrated in the rabbit developmental toxicity study. In the 2-generation reproduction study in rats, decreased parental body weights (≥10%) were seen at the LOAEL of 137 mg/kg/day (parental NOAEL = 37.8 mg/kg/day). In contrast, body weight decreases that were considered adverse were seen in F_2 pups at 37.8 mg/kg/day (the parental NOAEL and the offspring LOAEL; offspring NOAEL = 7.7 mg/kg/day). These findings suggest quantitative susceptibility for developing young animals.

The acute neurotoxicity study (dosing by gavage) showed that at the time of peak-effect, flupyradifurone caused increases in the incidence of piloerection and dilated pupils at 50 mg/kg. At the next higher dose level (200 mg/kg) and above, it produced a large host of clinical signs, which were related to neurotoxicity. The clinical signs included dilated pupils, lower muscle tone, low arousal, tremors, myoclonic jerks, chewing, repetitive licking of lips, gait incoordination, flattened or hunched posture, and impaired righting reflex. In the 90-day neurotoxicity study, no neurotoxicity or other adverse effects were seen at dose levels as high as 174 mg/kg/day. The developmental neurotoxicity study at 102 mg/kg/day yielded an increased incidence of increased amplitude in startle response.

Flupyradifurone is classified as ''not likely to be carcinogenic to humans.'' Carcinogenicity studies in rats and mice did not yield a compound-related increase in tumor incidence, and the genotoxicity battery did not show flupyradifurone to produce any genotoxicity. Flupyradifurone did not demonstrate any immunotoxic effects.

Specific information on the studies received and the nature of the adverse effects caused by flupyradifurone as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document ''Flupyradifurone: Human Health Risk Assessment for The First Food Use'' in

docket ID number EPA–HQ–OPP–2013–0226.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern (LOC) to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for flupyradifurone used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR FLUPYRADIFURONE, FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/ safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (All populations)	NOAEL = 35 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Acute RfD = .35 mg/kg/day.	Acute neurotoxicity study—rat. LOAEL = 50 mg/kg/day based on increased incidences of piloerection in both sexes and pupil dilation in females on day 1. At the next higher dose level (200 mg/kg) or above, lower muscle tone, rapid respiration, low arousal, tremors, myoclonic jerks, chewing, repetitive licking of lips, gait incoordination, flattened or hunched posture, dilated pupils, impaired (uncoordinated or slow) righting reflex, impaired flexor and tail pinch responses, and reduced rectal temperature. Automated measures of motor activity were also reduced in both sexes, compared to controls.
Chronic dietary (All populations)	NOAEL = 7.8 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = .078 mg/kg/day. cPAD = .078 mg/kg/day.	1-year oral toxicity study—dog. LOAEL = 28 mg/kg/day based on minimal to slight, focal to multifocal areas of skeletal muscle degeneration in grastrocnemius and/or biceps femoris muscle.
Cancer (Oral, dermal, inhalation)	Flupyradifurone is classified as ''not likely to be carcinogenic to humans'' based on data showing no treatment related increase in tumor incidence in rat and mouse carcinogenicity studies.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to flupyradifurone, EPA considered exposure under the petitioned-for tolerances. EPA assessed dietary exposures from flupyradifurone, in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for flupyradifurone. Exposure and risk assessments were conducted using the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM–FCID). This software uses 2003–2008 food consumption data from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA assumed that flupyradifurone residues were present at recommended tolerance levels in all commodities and that 100% of these crops were treated with flupyradifurone. DEEM default processing factors were used for cranberry juice, dried apple, dried beef, and dried pear; empirical processing factors were used for processed commodities of apple (sauce and juice), citrus oil, coffee, corn (bran, flour, meal, starch, oil), cotton (oil), grape (wine, juice), grapefruit (juice), hops (dried cones), lemons (juice), limes (juice), oranges (juice and peel), peanut (butter, oil), pears (juice), potatoes (chips, flakes, cooked), soybeans (oil, milk, flour), tomatoes (juice, puree, paste), and wheat (bran, germ, flour).

ii. *Chronic exposure.* Exposure and risk assessments were conducted using the DEEM–FCID. This software uses 2003–2008 food consumption data from the USDA's NHANES/WWEIA. EPA assumed that flupyradifurone residues were present at recommended tolerance levels in all commodities and that 100% of these crops were treated with flupyradifurone. DEEM default processing factors were used for cranberry juice, dried apple, dried beef, and dried pear; empirical processing factors were used for processed commodities of apple (sauce and juice), citrus oil, coffee, corn (bran, flour, meal, starch, oil), cotton (oil), grape (wine, juice), grapefruit (juice), hops (dried cones), lemons (juice), limes (juice), oranges (juice and peel), peanut (butter,

oil), pears (juice), potatoes (chips, flakes, cooked), soybeans (oil, milk, flour), tomatoes (juice, puree, paste), and wheat (bran, germ, flour).

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that flupyradifurone does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for flupyradifurone. Tolerance-level residues and/or 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for flupyradifurone, in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of flupyradifurone. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) the estimated drinking water concentrations (EDWCs) of flupyradifurone for acute exposures is estimated to be 52.5 parts per billion (ppb) for surface water. Based on the Pesticide Root Zone Model Ground Water (PRZM GW), the EDWCs of flupyradifurone for acute exposures are estimated to 352 ppb for ground water.

Based on the PRZM/EXAMS the EDWCs of flupyradifurone for chronic exposures for non-cancer assessments are estimated to be 22.3 ppb for surface water and based on the PRZM GW the EDWCs are estimated to be 307 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 352 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 307 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Flupyradifurone is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found flupyradifurone to share a common mechanism of toxicity with any other substances, and flupyradifurone does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that flupyradifurone does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* The developmental toxicity study in rats demonstrated no evidence of susceptibility in developing animals. In the rabbit developmental toxicity study, there was an increase in the incidence of fetal death at 80 mg/kg/day, a dose that did not produce adverse effects in the maternal animals. Therefore, a quantitative increase in susceptibility was demonstrated in the rabbit developmental toxicity study; however, the deaths occurred only at the highest tested dose. In the 2-generation reproduction study in rats, decreased parental body weights (≥10%) were seen at the LOAEL of 137 mg/kg/day (parental NOAEL = 37.8 mg/kg/day). In contrast, body weight decreases that were considered adverse were seen in F_2 pups at 37.8 mg/kg/day (the parental NOAEL and the offspring LOAEL; offspring NOAEL = 7.7 mg/kg/day). These findings suggest quantitative susceptibility for developing young animals. However, the effects seen in the rabbit developmental study and in the rat reproductive study occurred at doses higher than the toxicity POD for risk assessment, which was selected from the 1-year dog study (28 mg/kg/day, LOAEL) with a NOAEL of 7.8 mg/kg/day. The NOAEL (7.8 mg/kg/day) selected as the POD for chronic dietary risk assessment is protective of the effects seen in the rat F_2 pups and the increased incidence of fetal death in the developmental rabbit study. Therefore, there are no concerns for the observed increased susceptibility.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for flupyradifurone is complete.

ii. Although there is evidence that flupyradifurone has neurotoxic effects, EPA has a complete set of neurotoxicity studies (acute, subchronic, and developmental). The effects of those studies are well-characterized and indicate neurotoxic effects that occur at levels above the chronic POD that was selected for risk assessment. The NOAEL for the acute neurotoxicity study is being used for the acute POD. Therefore, there is no need to retain the 10X FQPA SF to account for any uncertainty concerning these effects.

iii. There is no evidence that flupyradifurone results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study. There is quantitative susceptibility in rabbit developmental study and in the pup of the reproduction study, but the PODs are protective of this increased susceptibility.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to flupyradifurone in drinking water. These assessments will not underestimate the exposure and risks posed by flupyradifurone.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to flupyradifurone will occupy 38% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to flupyradifurone from food and water will utilize 84% of the cPAD for children 1–2 years old the population group receiving the greatest exposure.

3. *Short-term and Intermediate-term risk.* Short-term and Intermediate-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). A short-term/intermediate-term adverse effect was identified; however, flupyradifurone is not registered for any use patterns that would result in short-term or intermediate-term residential exposure. Because there is no short-term or intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short-term risk), no further assessment of short-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short-term risk for flupyradifurone.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, flupyradifurone is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to flupyradifurone residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high performance liquid chromatography with tandem mass spectrometry (HPLC/MS–MS)) is available to enforce the tolerance expression. The validated limit of quantification (LOQ) is 0.01 mg/kg for flupyradifurone in most commodities.

An HPLC/MS–MS method, Method RV–004–A11–05 (latest revision of the data collection method RV–004–A11–04), is adequate as the enforcement method for determination of residues of flupyradifurone in livestock commodities. The validated LOQ for flupyradifurone is 0.01 mg/kg in all matrices.

The Food and Drug Administration (FDA) multi-residue methods (MRMs) are suitable for flupyradifurone only in non-fatty matrices. The methods are not suitable for fatty matrices or matrices that require further clean-up. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. The Codex has not established a MRLs for flupyradifurone.

C. Revisions to Petitioned-For Tolerances

The Petitioner requested a definition for enforcement of tolerance as the sum of flupyradifurone and DFA and DFEAF, expressed as flupyradifurone, which significantly inflated the field trial residue values and resulted in higher tolerance values. EPA, consistent with its global review partners, has selected parent flupyradifurone only as the residue definition for tolerance enforcement. Flupyradifurone is the major portion of the residue in plant commodities and in some livestock commodities. In other livestock commodities, it is present at the same approximate concentration as some metabolites. Moreover, the significant metabolite DFA is not suitable for enforcement purposes, as its concentration is erratic with time. The harmonized enforcement definition, flupyradifurone only, will facilitate trade and is predicted to be the residue definition adopted by Codex in the future based on application of their policy. Therefore, EPA is reducing the tolerance values for the petitioned-for tolerances for the following commodity groups/subgroups or commodities: Cattle, goat, hog, horse, and sheep meat and meat byproducts; hog fat; milk; poultry eggs; root vegetables subgroup 1B; tuberous and corm vegetables subgroup 1C; bulb onion subgroup 3–07A; leafy vegetable group 4; legume vegetables subgroups 6A, 6B, 6C; soybean; foliage of legume vegetables group 7; fruiting vegetables group 8–10; cucurbit vegetables group 9; citrus pulp; pome fruits group 11–10; grape raisins; bushberry subgroup 13B except cranberry; tree nut group 14; cereal grain group 15 except rice and except corn; sweet corn, cereal grain forage, fodder, and straw group 16; nongrass animal feeds crop group 18; cotton undelinted seed; coffee bean; hops; peanut hay; peanut; prickly pear cactus fruit and pad.

The petition requested a tolerance for root vegetables, except sugar beets subgroup 1B at 1.5 ppm. The ratio of highest average field trials (HAFTs) of the representative commodities (carrot/radish, 0.603/0.046 ppm) was 13, but the ratio of the median residue value was 1.8. The small median ratio indicates that the central tendency of both carrot and radish residue values are similar and that a single tolerance would be appropriate for the subgroup, represented by carrot and radish. The higher tolerance estimate from carrot (0.90 ppm) will cover all members of the subgroup.

The petition requested a tolerance for the leafy vegetable, except *Brassica* vegetables, group 4 at 40 ppm. Based on the available residue data, EPA is establishing separate tolerances for each of the subgroups of group 4, instead of a single tolerance for the whole group. For subgroup 4A (leafy greens), EPA is

establishing a tolerance at 30 ppm, based on the highest residues, which were found on the representative crop spinach. For subgroup 4B (leafy petioles), EPA is establishing a separate tolerance at 9.0 ppm based on the celery residues. The leafy greens subgroup tolerance was translated to cover taro leaves; therefore, EPA is establishing a tolerance for taro leaves at 30 ppm, rather than the 40 ppm requested.

The petitioned-for tolerance for the shelled pea and bean subgroup 6B at 4 ppm was not possible because the residues on the garden pea and lima bean were substantially different. Residues differ by more than 5X between succulent peas and succulent beans. In accordance with 40 CFR 180.40(g), a subgroup tolerance is not normally appropriate; rather, EPA may establish individual crop tolerances. Therefore, EPA is establishing individual tolerances for succulent peas and succulent beans.

The petition requested a tolerance for cereal grains, grain, group 15 except rice at 4 ppm. The residues on sweet corn and field corn grain were much lower than those on sorghum, wheat, and barley grains; therefore, EPA is excluding corn (field corn, popcorn, and sweet corn) grain from that group 15 tolerance, as well as rice. Based on available residue data, EPA is establishing separate tolerances for popcorn, grain, field corn, grain, and sweet corn (kernels plus cobs with husks removed) at 0.05 ppm. Under 180.40(h), EPA may exclude some commodities from a group tolerance where the residue levels are significantly higher or lower than the other commodities in the group. Corn, unlike the other cereal grains, has a protective husk and this difference is often reflected in lower residues for late season foliar applications. Therefore, EPA is excluding corn grain and rice from the crop group 15 tolerance and establishing separate tolerances for corn. The remaining cereal grains, represented by grain sorghum, barley, and wheat, are quite similar.

The petition requested a tolerance on nongrass animal feeds group 18, forage at 20 ppm and hay at 40 ppm. EPA is unable to establish group 18 tolerances at this time for forage and hay because data from only four field trials on clover (one of the representative crops) was available. Based on the available data, EPA is establishing tolerances for alfafa and regional tolerances for clover (since use on clover is restricted to Washington, Oregon, and Idaho, the area where the field trials were conducted). A group tolerance could be considered if additional field trials for clover from diverse areas of the U.S. were supplied.

The petition requested a tolerance for rice grain at 4 ppm as a rotational crop. EPA cannot establish this tolerance at this time because no data were provided to support this request. Rice field trial data are required to establish a tolerance.

The proposed wheat bran tolerance of 5 ppm is not necessary. The cereal grain group tolerance covers wheat bran. The highest average field trial (HAFT) residue for wheat grain was 0.73 ppm and the experimentally determined processing factor for the conversion of grain to bran was 2.4. Therefore, the tolerance estimate for wheat bran is 1.8 ppm (0.73×2.4). As 1.8 ppm is less than the 3 ppm cereal group tolerance, a separate tolerance for wheat bran is not needed.

EPA was petitioned for tolerances on tree nut group 14 and pistachio. In the **Federal Register** of August 22, 2012 (77 FR 50617) (FRL–9354–3), EPA issued a final rule that revised the crop grouping regulations. As part of this action, EPA expanded and revised the existing tree nut group 14. Changes to crop group 14 included adding the specialty commodities African nut tree, Brazilian pine, bunya, bur oak, cajou nut, candlenut, coconut, coquito nut, dika nut, ginkgo, guiana chestnut, heartnut, Japanese horse-chestnut, mongongo nut, monkey-pot, monkey puzzle nut, okari nut, pachira nut, peach palm nut, pequi, pili nut, pine nut, pistachio, tropical almond and yellowhorn including cultivars, varieties, and/or hybrids of these; and naming the new crop group tree nut group 14–12. EPA indicated in the August 22, 2012 final rule as well as the earlier proposed rule published in the **Federal Register** of November 9, 2011 (76 FR 69693) (FRL–8887–8) that, for petitions for which a Notice of Filing had been published, the Agency would attempt to conform these petitions to the final rule. Therefore, consistent with this final rule, EPA has assessed exposure to the, insecticide flupyradifurone, assuming use under the revised tree nut group 14–12. Because revising the requested crop group to the updated crop group did not result in a risk of concern, EPA is establishing tolerances for flupyradifurone residues on tree nut group 14–12.

Cranberry was removed from subgroups 13–07B and 13–07G at the request of the petitioner as a modification to the original request.

Tolerances are not needed for the processed commodities instant coffee, roasted coffee, and tomato paste. The recommended tolerances for the raw agricultural commodities, tomato and green coffee bean cover the respective processed commodities. The highest average field trial (HAFT) result for coffee was 0.55 ppm, and the processing factors for instant coffee and roasted coffee were 0.59 and 1.9, respectively. Tolerance estimate (HAFT × processing factor; $0.55 \times 0.59 = 0.32$ ppm roasted bean; $0.55 \times 1.9 = 1.0$ ppm instant coffee) are less than the recommended green coffee bean tolerance (1.5 ppm). The HAFT for the tomato field trials was 0.57 ppm and the processing factor for conversion to paste was 2.0, and the product (0.57×2.0) is less than the recommended fruiting vegetable group tolerance (1.5 ppm).

Tolerances are not required for poultry meat and poultry meat byproducts, as the projected diet for poultry and the results of the poultry feeding study indicate that residues are not likely in poultry meat and poultry meat byproducts.

V. Conclusion

Therefore, tolerances are established for residues of flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]- 2(5*H*)-furanone, are: Alfalfa, forage at 9.0 ppm; alfalfa, hay at 20 ppm; almond, hulls at 15 ppm; bean, succulent at 0.2 ppm; berry, low growing, subgroup 13–07G, except cranberry at 1.5 ppm; *Brassica,* head and stem, subgroup 5A at 6.0 ppm; *Brassica,* leafy greens, subgroup 5B at 40 ppm; bushberry subgroup 13–07B, except cranberry at 4.0 ppm; cactus, fruit at 0.30 ppm; cactus, pads at 0.70 ppm; cattle, fat at 0.20 ppm; cattle, meat at 0.30 ppm; cattle, meat byproducts at 1.0 ppm; clover, forage at 20 ppm; clover, hay at 30 ppm; coffee, green bean at 1.5 ppm; corn, field, grain at 0.05 ppm; corn, pop, grain at 0.05 ppm; corn, sweet, kernels plus cobs with husks removed at 0.05 ppm; cotton, gin byproducts at 40 ppm; cottonseed subgroup 20C at 0.80 ppm; egg at 0.01 ppm; fruit, citrus, group 10–10 at 3.0 ppm; fruit, citrus, dried pulp, at 10 ppm; fruit, pome, group 11–10 at 0.70 ppm; fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 3.0 ppm; goat, fat at 0.20 ppm; goat, meat at 0.30 ppm; goat, meat byproducts at 1.0 ppm; grain, aspirated grains fractions at 40 ppm; grain, cereal, except rice and corn, group 15 at 3.0 ppm; grain, cereal, forage, fodder and straw, group 16 at 30 ppm; grape, raisin at 5.0 ppm; hog, fat at 0.01 ppm; hog, meat at 0.01 ppm; hog, meat byproducts at 0.04 ppm; hops, dried cones 10 ppm; horse, fat at 0.20 ppm; horse, meat at 0.30 ppm; horse, meat byproducts at 1.0 ppm; leaf petioles, subgroup 4B at 9.0

ppm; leafy greens, subgroup 4A at 30 ppm; milk at 0.15 ppm; nut, tree, group 14–12 at 0.02 ppm; onion, bulb, subgroup 3–07A at 0.09 ppm; onion, green, subgroup 3–07B at 3.0 ppm; pea and bean, dried, shelled except soybean, subgroup 6C at 3.0 ppm; pea, succulent at 2.0 ppm; peanut at 0.04 ppm; peanut, hay at 20 ppm; pitaya at 0.30 ppm; sheep, fat at 0.2 ppm; sheep, meat at 0.30 ppm; sheep, meat byproducts at 1.0 ppm; soybean, seed at 1.5 ppm; taro leaves at 30 ppm; turnip greens at 40 ppm; vegetable, cucurbit, group 9 at 0.40 ppm; vegetable, fruiting, group 8–10 at 1.5 ppm; vegetable, legume, edible podded, subgroup 6A at 3.0 ppm; vegetable, root, except sugar beet, subgroup 1B at 0.9 ppm; vegetable, tuberous and corm, subgroup 1C at 0.05 ppm; vegetable, foliage of legume, group 7, at 30 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 14, 2015.

Jack E. Housenger,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.679 to read as follows:

§ 180.679 Flupyradifurone; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide flupyradifurone, including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels specified in the following table is to be determined by measuring only flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]- 2(5*H*)-furanone.

Commodity	Parts per million
Alfalfa, forage	9.0
Alfalfa, hay	20
Almond, hulls	15
Bean, succulent	0.20
Berry, low growing, except cranberry subgroup 13–07G	1.5
Brassica, head and stem subgroup 5A	6.0
Brassica, leafy greens subgroup 5B	40
Bushberry, except cranberry subgroup 13–07B	4.0
Cactus, fruit	0.30
Cactus, pads	0.70
Cattle, fat	0.20
Cattle, meat	0.30
Cattle, meat byproducts	1.0
Coffee, green bean [1]	1.5
Corn, field, grain	0.05
Corn, pop, grain	0.05
Corn, sweet, kernels plus cobs with husks removed	0.05
Cotton, gin byproducts	40
Cottonseed, subgroup 20C	0.80
Egg	0.01
Fruit, citrus, dried pulp	10
Fruit, citrus, group 10–10	3.0
Fruit, pome, group 11–10	0.70
Fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13–07F	3.0
Goat, fat	0.20
Goat, meat	0.30
Goat, meat byproducts	1.0
Grain, aspirated grain fractions	40
Grain, cereal, forage, fodder and straw, group 16	30
Grain, cereal, group 15, except rice and corn	3.0
Grape, raisin	5.0
Hog, fat	0.01
Hog, meat	0.01
Hog, meat byproducts	0.04
Hops, dried cones	10
Horse, fat	0.20
Horse, meat	0.30
Horse, meat byproducts	1.0
Leaf petioles, subgroup 4B	9.0
Leafy greens, subgroup 4A	30
Milk	0.15
Nut, tree, group 14–12	0.02
Onion, bulb, subgroup 3–07A	0.09
Onion, green, subgroup 3–07B	3.0
Pea and bean, dried, shelled except soybean, subgroup 6C	3.0
Pea, succulent	2.0
Peanut	0.04

Commodity	Parts per million
Peanut, hay	20
Pitaya	0.30
Sheep, fat	0.20
Sheep, meat	0.30
Sheep, meat byproducts	1.0
Soybean, seed	1.5
Taro leaves	30
Turnip greens	40
Vegetable, cucurbit, group 9	0.40
Vegetable, foliage of legume, group 7	30
Vegetable, fruiting, group 8–10	1.5
Vegetable, legume, edible podded, subgroup 6A	3.0
Vegetable, root, except sugar beet, subgroup 1B	0.90
Vegetable, tuberous and corm, subgroup 1C	0.05

[1] *No U.S. registration.*

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional restrictions.* Tolerances are established for residues of the insecticide flupyradifurone, including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels specified in the following table is to be determined by measuring only flupyradifurone, 4-[[(6-chloro-3-pyridinyl)methyl](2,2-difluoroethyl)amino]- 2(5*H*)-furanone.

Commodity	Parts per million
Clover, forage	20
Clover, hay	30

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 2015–01013 Filed 1–22–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–8369]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Bret Gates, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4133.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30,

1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Virginia:				
Cape Charles, Town of, Northampton County.	510106	June 3, 1974, Emerg; February 2, 1983, Reg; March 2, 2015, Susp.	March 2, 2015	March 2, 2015.
Northampton County, Unincorporated Areas.	510105	September 6, 1974, Emerg; August 11, 1976, Reg; March 2, 2015, Susp.	.....do	Do.
Region V				
Indiana:				
Albion, Town of, Noble County	180184	March 11, 1976, Emerg; August 19, 1986, Reg; March 2, 2015, Susp.	.....do	Do.
Avilla, Town of, Noble County	180630	N/A, Emerg; June 5, 2013, Reg; March 2, 2015, Susp.	.....do	Do.
Henry County, Unincorporated Areas.	180437	N/A, Emerg; October 26, 1992, Reg; March 2, 2015, Susp.	.....do	Do.
Kendallville, City of, Noble County	180185	March 24, 1975, Emerg; January 6, 1983, Reg; March 2, 2015, Susp.	.....do	Do.
Lewisville, Town of, Henry County	180091	October 26, 1976, Emerg; September 4, 1987, Reg; March 2, 2015, Susp.	.....do	Do.
Ligonier, City of, Noble County	180186	September 23, 1975, Emerg; January 6, 1983, Reg; March 2, 2015, Susp.	.....do	Do.
Middletown, Town of, Henry County.	180331	April 24, 1975, Emerg; August 19, 1985, Reg; March 2, 2015, Susp.	.....do	Do.
New Castle, City of, Henry County	180092	April 14, 1975, Emerg; September 4, 1987, Reg; March 2, 2015, Susp.	.....do	Do.
Noble County, Unincorporated Areas.	180183	February 2, 1973, Emerg; January 3, 1979, Reg; March 2, 2015, Susp.	.....do	Do.
Rome City, Town of, Noble County	180385	July 29, 1975, Emerg; October 15, 1982, Reg; March 2, 2015, Susp.	.....do	Do.
Spiceland, Town of, Henry County	180494	N/A, Emerg; May 11, 1995, Reg; March 2, 2015, Susp.	.....do	Do.
Springport, Town of, Henry County	180347	February 23, 1976, Emerg; September 4, 1987, Reg; March 2, 2015, Susp.	.....do	Do.
Sulphur Springs, Town of, Henry County.	180349	N/A, Emerg; September 4, 1987, Reg; March 2, 2015, Susp.	.....do	Do.
Region VII				
Iowa:				
Sioux City, City of, Woodbury County.	190298	May 14, 1971, Emerg; August 1, 1979, Reg; March 2, 2015, Susp.	.....do	Do.
Woodbury County, Unincorporated Areas.	190536	October 29, 1974, Emerg; June 17, 1991, Reg; March 2, 2015, Susp.	.....do	Do.

*-do- = Ditto.

Code for reading third column: Emerg. —Emergency; Reg. —Regular; Susp. —Suspension.

Dated: January 12, 2015.

Edward L. Connor,

Deputy Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2015–01216 Filed 1–22–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–8367]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Bret Gates, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4133.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Maryland:				
Annapolis, City of, Anne Arundel County.	240009	December 7, 1973, Emerg; November 4, 1981, Reg; February 18, 2015, Susp.	February 18, 2015 ...	February 18, 2015.
Anne Arundel County, Unincorporated Areas.	240008	March 3, 1972, Emerg; May 2, 1983, Reg; February 18, 2015, Susp.	.....do	Do.
Highland Beach, Town of, Anne Arundel County.	240161	July 31, 1975, Emerg; November 4, 1981, Reg; February 18, 2015, Susp.	.....do	Do.
Virginia: King George County, Unincorporated Areas.	510312	May 16, 1975, Emerg; December 15, 1990, Reg; February 18, 2015, Susp.	.....do	Do.
Stafford County, Unincorporated Areas.	510154	April 9, 1974, Emerg; November 19, 1980, Reg; February 18, 2015, Susp.	.....do	Do.
Region V				
Indiana:				
Connersville, City of, Fayette County.	180061	April 11, 1975, Emerg; August 1, 1995, Reg; February 18, 2015, Susp.	.....do	Do.
Fayette County, Unincorporated Areas.	180417	April 11, 1975, Emerg; September 1, 1988, Reg; February 18, 2015, Susp.	.....do	Do.
Michigan:				
Bridgeton, Township of, Newaygo County.	260466	May 6, 1976, Emerg; September 4, 1986, Reg; February 18, 2015, Susp.	.....do	Do.
Brooks, Township of, Newaygo County.	260467	September 23, 1976, Emerg; July 3, 1986, Reg; February 18, 2015, Susp.	.....do	Do.
Croton, Township of, Newaygo County.	260468	November 26, 1986, Emerg; September 30, 1988, Reg; February 18, 2015, Susp.	.....do	Do.
Fremont, City of, Newaygo County	260167	April 22, 1975, Emerg; August 10, 1979, Reg; February 18, 2015, Susp.	.....do	Do.
Garfield, Township of, Newaygo County.	260469	March 9, 1976, Emerg; September 29, 1986, Reg; February 18, 2015, Susp.	.....do	Do.
Lincoln, Township of, Newaygo County.	260828	N/A, Emerg; February 21, 1996, Reg; February 18, 2015, Susp.	.....do	Do.
Newaygo, City of, Newaygo County	260340	March 10, 1982, Emerg; May 25, 1984, Reg; February 18, 2015, Susp.	.....do	Do.
Sherman, Township of, Newaygo County.	261384	March 10, 2011, Emerg; N/A, Reg; February 18, 2015, Susp.	.....do	Do.
White Cloud, City of, Newaygo County.	260470	September 25, 1978, Emerg; September 1, 1986, Reg; February 18, 2015, Susp.	.....do	Do.
Wilcox, Township of, Newaygo County.	261013	January 15, 1998, Emerg; N/A, Reg; February 18, 2015, Susp.	.....do	Do.

*-do- = Ditto.
Code for reading third column: Emerg. —Emergency; Reg. —Regular; Susp. —Suspension.

Dated: January 12, 2015.

Edward L. Connor,

Deputy Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2015–01214 Filed 1–22–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–8365]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Bret Gates, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4133.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Delaware:				
Ardentown, Village of, New Castle County.	100058	N/A, Emerg; January 28, 1997, Reg; February 4, 2015, Susp.	February 4, 2015	February 4, 2015.
Delaware City, City of, New Castle County.	100022	December 17, 1973, Emerg; February 16, 1977, Reg; February 4, 2015, Susp.	.....do*	Do.
Elsmere, Town of, New Castle County.	100023	October 2, 1974, Emerg; December 31, 1976, Reg; February 4, 2015, Susp.	.....do	Do.
Middletown, Town of, New Castle County.	100024	June 13, 1974, Emerg; January 7, 1977, Reg; February 4, 2015, Susp.	.....do	Do.
New Castle County, Unincorporated Areas.	105085	June 6, 1970, Emerg; December 3, 1971, Reg; February 4, 2015, Susp.	.....do	Do.
Newark, City of, New Castle County.	100025	June 5, 1970, Emerg; March 29, 1974, Reg; February 4, 2015, Susp.	.....do	Do.
Newport, Town of, New Castle County.	100054	May 28, 1974, Emerg; June 15, 1978, Reg; February 4, 2015, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Odessa, Town of, New Castle County.	100066	N/A, Emerg; April 27, 2012, Reg; February 4, 2015, Susp.	.....do	Do.
Wilmington, City of, New Castle County.	100028	December 19, 1973, Emerg; May 2, 1977, Reg; February 4, 2015, Susp.	.....do	Do.
Maryland:				
Crisfield, City of, Somerset County	240062	April 28, 1975, Emerg; June 15, 1981, Reg; February 4, 2015, Susp.	.....do	Do.
Princess Anne, Town of, Somerset County.	240063	January 28, 1974, Emerg; April 20, 1979, Reg; February 4, 2015, Susp.	.....do	Do.
Somerset County, Unincorporated Areas.	240061	May 8, 1975, Emerg; June 15, 1981, Reg; February 4, 2015, Susp.	.....do	Do.
Region V				
Indiana:				
Greentown, Town of, Howard County.	180513	September 14, 1995, Emerg; N/A, Reg; February 4, 2015, Susp.	.....do	Do.
Howard County, Unincorporated Areas.	180414	March 6, 1975, Emerg; July 16, 1981, Reg; February 4, 2015, Susp.	.....do	Do.
Kokomo, City of, Howard County ...	180093	February 19, 1975, Emerg; August 3, 1981, Reg; February 4, 2015, Susp.	.....do	Do.
Russiaville, Town of, Howard County.	180427	September 15, 1975, Emerg; June 1, 1979, Reg; February 4, 2015, Susp.	.....do	Do.
Michigan: Aetna, Township of, Mecosta County.	261448	March 18, 2010, Emerg; N/A, Reg; February 4, 2015, Susp.	.....do	Do.
Big Rapids, City of, Mecosta County.	260136	May 14, 1975, Emerg; September 1, 1986, Reg; February 4, 2015, Susp.	.....do	Do.
Big Rapids, Township of, Mecosta County.	260135	August 20, 1975, Emerg; September 1, 1988, Reg; February 4, 2015, Susp.	.....do	Do.
Colfax, Town of, Mecosta County ..	260903	October 2, 1992, Emerg; May 1, 1994, Reg; February 4, 2015, Susp.	.....do	Do.
Deerfield, Township of, Mecosta County.	261451	March 18, 2010, Emerg; N/A, Reg; February 4, 2015, Susp.	.....do	Do.
Fork, Township of, Mecosta County	260633	September 3, 1975, Emerg; May 25, 1984, Reg; February 4, 2015, Susp.	.....do	Do.
Green, Charter Township of, Mecosta County.	260951	March 11, 1996, Emerg; N/A, Reg; February 4, 2015, Susp.	.....do	Do.
Mecosta, Township of, Mecosta County.	260698	October 7, 1976, Emerg; September 4, 1986, Reg; February 4, 2015, Susp.	.....do	Do.
Morley, Village of, Mecosta County	260585	October 12, 1976, Emerg; July 16, 1987, Reg; February 4, 2015, Susp.	.....do	Do.
Morton, Township of, Mecosta County.	261454	August 5, 2009, Emerg; N/A, Reg; February 4, 2015, Susp.	.....do	Do.
Wisconsin:				
Fort Atkinson, City of, Jefferson County.	555554	November 13, 1970, Emerg; August 6, 1971, Reg; February 4, 2015, Susp.	.....do	Do.
Jefferson, City of, Jefferson County	555561	April 23, 1971, Emerg; May 26, 1972, Reg; February 4, 2015, Susp.	.....do	Do.
Jefferson County, Unincorporated Areas.	550191	April 2, 1971, Emerg; September 29, 1978, Reg; February 4, 2015, Susp.	.....do	Do.
Johnson Creek, Village of, Jefferson County.	550194	February 13, 1976, Emerg; September 30, 1982, Reg; February 4, 2015, Susp.	.....do	Do.
Lake Mills, City of, Jefferson County.	550195	September 10, 1975, Emerg; July 2, 1987, Reg; February 4, 2015, Susp.	.....do	Do.
Palmyra, Village of, Jefferson County.	550196	May 13, 1975, Emerg; May 3, 1990, Reg; February 4, 2015, Susp.	.....do	Do.
Sullivan, Village of, Jefferson County.	550197	July 10, 1975, Emerg; September 18, 1985, Reg; February 4, 2015, Susp.	.....do	Do.
Waterloo, City of, Jefferson County	550198	July 25, 1975, Emerg; September 18, 1985, Reg; February 4, 2015, Susp.	.....do	Do.
Watertown, City of, Jefferson and Dodge Counties.	550107	May 23, 1975, Emerg; April 1, 1981, Reg; February 4, 2015, Susp.	.....do	Do.
Region VII				
Missouri:				
Ballwin, City of, Saint Louis County	290328	July 8, 1975, Emerg; January 2, 1981, Reg; February 4, 2015, Susp.	.....do	Do.
Bella Villa, City of, Saint Louis County.	290329	June 18, 1975, Emerg; July 16, 1979, Reg; February 4, 2015, Susp.	.....do	Do.
Bellefontaine Neighbors, City of, Saint Louis County.	290330	December 10, 1973, Emerg; September 29, 1978, Reg; February 4, 2015, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Bel-Ridge, Village of, Saint Louis County.	290333	June 11, 1975, Emerg; February 18, 1981, Reg; February 4, 2015, Susp.	.....do	Do.
Berkeley, City of, Saint Louis County.	290335	November 15, 1973, Emerg; August 1, 1979, Reg; February 4, 2015, Susp.	.....do	Do.
Black Jack, City of, Saint Louis County.	290336	July 2, 1974, Emerg; January 2, 1981, Reg; February 4, 2015, Susp.	.....do	Do.
Breckenridge Hills, City of, Saint Louis County.	290337	July 18, 1975, Emerg; October 15, 1980, Reg; February 4, 2015, Susp.	.....do	Do.
Brentwood, City of, Saint Louis County.	290338	September 7, 1973, Emerg; May 16, 1977, Reg; February 4, 2015, Susp.	.....do	Do.
Bridgeton, City of, Saint Louis County.	290339	December 10, 1973, Emerg; September 1, 1978, Reg; February 4, 2015, Susp.	.....do	Do.
Chesterfield, City of, Saint Louis County.	290896	September 3, 1971, Emerg; September 15, 1978, Reg; February 4, 2015, Susp.	.....do	Do.
Clarkson Valley, City of, Saint Louis County.	290340	May 27, 1975, Emerg; April 8, 1977, Reg; February 4, 2015, Susp.	.....do	Do.
Clayton, City of, Saint Louis County.	290341	December 23, 1971, Emerg; February 14, 1976, Reg; February 4, 2015, Susp.	.....do	Do.
Cool Valley, City of, Saint Louis County.	290342	December 11, 1973, Emerg; May 16, 1977, Reg; February 4, 2015, Susp.	.....do	Do.
Crestwood, City of, Saint Louis County.	290343	June 18, 1973, Emerg; May 2, 1977, Reg; February 4, 2015, Susp.	.....do	Do.
Creve Coeur, City of, Saint Louis County.	290344	March 27, 1974, Emerg; August 1, 1978, Reg; February 4, 2015, Susp.	.....do	Do.
Dellwood, City of, Saint Louis County.	290346	July 19, 1974, Emerg; June 27, 1978, Reg; February 4, 2015, Susp.	.....do	Do.
Des Peres, City of, Saint Louis County.	290347	December 26, 1973, Emerg; June 15, 1979, Reg; February 4, 2015, Susp.	.....do	Do.
Ellisville, City of, Saint Louis County.	290348	February 5, 1975, Emerg; September 9, 1980, Reg; February 4, 2015, Susp.	.....do	Do.
Eureka, City of, Saint Louis County	290349	January 23, 1974, Emerg; July 5, 1977, Reg; February 4, 2015, Susp.	.....do	Do.
Fenton, City of, Saint Louis County	290350	February 25, 1972, Emerg; January 19, 1978, Reg; February 4, 2015, Susp.	.....do	Do.
Ferguson, City of, Saint Louis County.	290351	May 3, 1973, Emerg; January 19, 1978, Reg; February 4, 2015, Susp.	.....do	Do.
Florissant, City of, Saint Louis County.	290352	June 11, 1973, Emerg; February 4, 1981, Reg; February 4, 2015, Susp.	.....do	Do.
Frontenac, City of, Saint Louis County.	290353	March 31, 1975, Emerg; February 18, 1981, Reg; February 4, 2015, Susp.	.....do	Do.
Grantwood Village, Town of, Saint Louis County.	290355	May 20, 1974, Emerg; January 16, 1981, Reg; February 4, 2015, Susp.	.....do	Do.
Green Park, City of, Saint Louis County.	290668	N/A, Emerg; August 12, 1998, Reg; February 4, 2015, Susp.	.....do	Do.
Hazelwood, City of, Saint Louis County.	290357	November 27, 1973, Emerg; April 1, 1980, Reg; February 4, 2015, Susp.	.....do	Do.
Hillsdale, Village of, Saint Louis County.	290358	August 27, 1975, Emerg; August 24, 1984, Reg; February 4, 2015, Susp.	.....do	Do.
Huntleigh, City of, Saint Louis County.	290359	N/A, Emerg; December 30, 1998, Reg; February 4, 2015, Susp.	.....do	Do.
Jennings, City of, Saint Louis County.	290360	December 19, 1973, Emerg; June 15, 1979, Reg; February 4, 2015, Susp.	.....do	Do.
Kirkwood, City of, Saint Louis County.	290362	November 5, 1973, Emerg; April 3, 1987, Reg; February 4, 2015, Susp.	.....do	Do.
Ladue, City of, Saint Louis County	290363	October 22, 1971, Emerg; March 16, 1976, Reg; February 4, 2015, Susp.	.....do	Do.
Mackenzie, Village of, Saint Louis County.	290365	April 5, 1973, Emerg; September 29, 1978, Reg; February 4, 2015, Susp.	.....do	Do.
Manchester, City of, Saint Louis County.	290366	September 3, 1975, Emerg; October 15, 1980, Reg; February 4, 2015, Susp.	.....do	Do.
Maplewood, City of, Saint Louis County.	295266	May 21, 1971, Emerg; November 23, 1973, Reg; February 4, 2015, Susp.	.....do	Do.
Maryland Heights, City of, Saint Louis County.	290889	April 4, 1986, Emerg; September 30, 1988, Reg; February 4, 2015, Susp.	.....do	Do.
Northwoods, City of, Saint Louis County.	290372	April 12, 1974, Emerg; December 2, 1980, Reg; February 4, 2015, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Oakland, City of, Saint Louis County.	290373	June 5, 1975, Emerg; January 16, 1981, Reg; February 4, 2015, Susp.	.....do	Do.
Olivette, City of, Saint Louis County.	290374	February 19, 1974, Emerg; July 3, 1978, Reg; February 4, 2015, Susp.	.....do	Do.
Overland, City of, Saint Louis County.	290375	May 22, 1974, Emerg; October 15, 1980, Reg; February 4, 2015, Susp.	.....do	Do.
Richmond Heights, City of, Saint Louis County.	290380	September 5, 1973, Emerg; May 16, 1977, Reg; February 4, 2015, Susp.	.....do	Do.
Riverview, Village of, Saint Louis County.	290381	January 3, 1977, Emerg; April 17, 1979, Reg; February 4, 2015, Susp.	.....do	Do.
Rock Hill, City of, Saint Louis County.	290382	May 29, 1973, Emerg; May 16, 1977, Reg; February 4, 2015, Susp.	.....do	Do.
Saint Ann, City of, Saint Louis County.	290383	July 19, 1974, Emerg; July 16, 1979, Reg; February 4, 2015, Susp.	.....do	Do.
Saint John, City of, Saint Louis County.	290384	May 9, 1975, Emerg; April 15, 1977, Reg; February 4, 2015, Susp.	.....do	Do.
Saint Louis County, Unincorporated Areas.	290327	September 3, 1971, Emerg; September 15, 1978, Reg; February 4, 2015, Susp.	.....do	Do.
Shrewsbury, City of, Saint Louis County.	290386	December 19, 1974, Emerg; January 16, 1981, Reg; February 4, 2015, Susp.	.....do	Do.
Sunset Hills, City of, Saint Louis County.	290387	June 28, 1973, Emerg; September 1, 1977, Reg; February 4, 2015, Susp.	.....do	Do.
University City, City of, Saint Louis County.	290390	April 20, 1973, Emerg; June 1, 1978, Reg; February 4, 2015, Susp.	.....do	Do.
Valley Park, City of, Saint Louis County.	290391	June 23, 1975, Emerg; June 15, 1982, Reg; February 4, 2015, Susp.	.....do	Do.
Webster Groves, City of, Saint Louis County.	290394	January 23, 1974, Emerg; September 29, 1978, Reg; February 4, 2015, Susp.	.....do	Do.
Wellston, City of, Saint Louis County.	290395	May 2, 1975, Emerg; May 19, 1981, Reg; February 4, 2015, Susp.	.....do	Do.
Wildwood, City of, Saint Louis County.	290922	N/A, Emerg; February 28, 1997, Reg; February 4, 2015, Susp.	.....do	Do.
Woodson Terrace, City of, Saint Louis County.	290398	May 14, 1974, Emerg; June 20, 1976, Reg; February 4, 2015, Susp.	.....do	Do.

*-do- = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: January 20, 2015.

Edward L. Connor,

Deputy Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2015–01237 Filed 1–22–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281–0369–02]

RIN 0648–XD717

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Reduction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; trip limit reduction.

SUMMARY: NMFS reduces the trip limit in the hook-and-line component of the commercial sector for king mackerel in the southern Florida west coast subzone to 500 lb (227 kg) of king mackerel per day in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the king mackerel resource in the Gulf of Mexico (Gulf).

DATES: This rule is effective 12:01 a.m., local time, January 24, 2015, through June 30, 2015, unless NMFS publishes a superseding document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *susan.gerhart@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, and cobia) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The Gulf migratory group king mackerel is divided into western and eastern zones. The Gulf's eastern zone for king mackerel is further divided into the Florida west coast northern and southern subzones that have separate commercial quotas. The 2014 to 2015 fishing year quota for the hook-and-line component of the commercial sector in the southern Florida west coast subzone is 551,448 lb (250,133 kg) (50 CFR 622.384(b)(1)(i)(B)(*1*)) (76 FR 82058, December 29, 2011).

In accordance with 50 CFR 622.385(a)(2)(ii)(B)(*2*), from the date that 75 percent of the southern Florida west

coast subzone's hook-and-line gear quota has been harvested until a closure of the subzone's commercial sector of the hook-and-line component has been effected or the fishing year ends, king mackerel in or from the EEZ may be possessed on board or landed from a permitted vessel in amounts not exceeding 500 lb (227-kg) per day.

NMFS has projected that 75 percent of the hook-and-line gear quota for Gulf group king mackerel from the southern Florida west coast subzone will be harvested by January 24, 2015. Accordingly, a 500-lb (227-kg) trip limit applies to vessels in the hook-and-line component of the commercial sector for king mackerel in or from the EEZ in the southern Florida west coast subzone effective 12:01 a.m., local time, January 24, 2015. The 500-lb (227-kg) trip limit will remain in effect until the component closes or until the end of the current fishing year (June 30, 2015), whichever occurs first.

From November 1 through March 31, the southern subzone encompasses an area of the EEZ south of a line extending due west of the Lee and Collier County, FL, boundary on the Florida west coast, and south of a line extending due east of the Monroe and Miami-Dade County, FL, boundary on the Florida east coast, which includes the EEZ off Collier and Monroe Counties, FL. From April 1 through October 31, the southern subzone is reduced to the EEZ off Collier County, and the EEZ off Monroe County becomes part of the Atlantic migratory group area.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf migratory group king mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.385(a)(2)(ii)(B) and 622.385(a)(2)(iii) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this trip limit reduction for the hook-and-line component of the commercial sector constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment on this temporary rule is unnecessary and contrary to the public interest. Such procedures are unnecessary because the commercial trip limit for hook-and-line gear at 50 CFR 622.385(a)(2)(ii)(B) has already has been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction. They are contrary to the public interest because there is a need to immediately implement this action to protect the king mackerel resource, since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment on this action would require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 20, 2015.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–01151 Filed 1–20–15; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 131021878–4158–02]

RIN 0648–XD725

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from vessels using jig gear to catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the A season apportionment of the 2015 total allowable catch of Pacific cod to be harvested.

DATES: Effective January 20, 2015, through 2400 hours, Alaska local time (A.l.t.), December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season apportionment of the 2015 Pacific cod total allowable catch (TAC) specified for vessels using jig gear in the BSAI is 1,871 metric tons (mt) as established by the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014) and inseason adjustment (80 FR 188, January 5, 2015).

The 2015 Pacific cod total allowable catch (TAC) allocated to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI is 4,438 mt as established by the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014), inseason adjustment (80 FR 188, January 5, 2015),

The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that jig vessels will not be able to harvest 1,700 mt of the A season apportionment of the 2015 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*1*). Therefore, in accordance with § 679.20(a)(7)(iv)(C), NMFS apportions 1,700 mt of Pacific cod from the A season jig gear apportionment to the annual amount specified for catcher vessels less than 60 feet (18.3 meters(m)) length overall (LOA) using hook-and-line or pot gear.

The harvest specifications for Pacific cod included in the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014) and inseason adjustment (80 FR 188, January 5, 2015) are revised as follows: 171 mt to the A season apportionment and 1,418 mt to the annual amount for vessels using jig gear, and 6,138 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA

(AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified from jig vessels to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of January 15, 2015.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 16, 2015.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–01081 Filed 1–20–15; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 15
Friday, January 23, 2015

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0074; Directorate Identifier 2014–NM–138–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2E25 (Regional Jet Series 1000) airplanes. This proposed AD was prompted by a determination that without an effective maintenance task to maintain the airplane's inherent level of safety, there is a potential that a dormant failure of the alternate release system of the landing gear could occur. This proposed AD would require revising the maintenance or inspection program, as applicable, to incorporate a maintenance task for an operational check of the electro-mechanical actuator (EMA) and release mechanism of the alternate extension system (AES) for the nose landing gear (NLG) and main landing gear (MLG). We are proposing this AD to prevent failure of the alternate release system of the landing gear, which could prevent the landing gear from extending during a failure of the normal landing gear extension system.

DATES: We must receive comments on this proposed AD by March 9, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0074; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0074; Directorate Identifier 2014–NM–138–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–16, dated June 11, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2E25 (Regional Jet Series 1000) airplanes. The MCAI states:

> During a design review, an error was identified which led to the development of a new certification maintenance requirement (CMR) task. Without an effective maintenance task to maintain the aeroplane's inherent level of safety, there is a potential that a dormant failure of the alternate release system of the landing gear could occur. Failure of the landing gear alternate release system could prevent the landing gear from extending in the case of a failure of the normal landing gear extension system.
>
> This [TCCA] AD mandates the incorporation of a new maintenance task to ensure operation of the landing gear alternate extension system.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0074.

Related Service Information

Bombardier, Inc. has issued Temporary Revision (TR) ALI–0472, dated February 27, 2014, to Section 1–32, of Part 2, Bombardier Airworthiness Limitations, of the CRJ Series Regional Jet Maintenance Requirements Manual, CSP B–053. This service information describes a maintenance task for an operational check of the electro-mechanical actuator and release mechanism of the alternate extension system for the nose landing gear and main landing gear. The actions described in this service information are

intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of this same type design.

This AD requires revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (i)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Costs of Compliance

We estimate that this proposed AD affects 35 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $2,975, or $85 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Bombardier, Inc.: Docket No. FAA–2015–0074; Directorate Identifier 2014–NM–138–AD.

(a) Comments Due Date

We must receive comments by March 9, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2E25 (Regional Jet Series 1000) airplanes, certificated in any category, serial numbers 19002 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Reason

This AD was prompted by a determination that without an effective maintenance task to maintain the airplane's inherent level of safety, there is a potential that a dormant failure of the alternate release system of the landing gear can occur. We are issuing this AD to prevent failure of the alternate release system of the landing gear, which could prevent the landing gear from extending during a failure of the normal landing gear extension system.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Revise Maintenance Program

Within 30 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate Task 32–01–00–101, ''Operational Check of the MLG [Main Landing Gear] and NLG [Nose Landing Gear] AES [Alternate Extension System] EMA [Electro-mechanical Actuator] and Release Mechanism (CRJ1000),'' for the operational check of the MLG and NLG AES EMA and release mechanism, as specified in Bombardier Temporary Revision (TR) ALI–0472, dated February 27, 2014, to Section 1–32 of Part 2, Bombardier Airworthiness Limitations, of the CRJ Series Regional Jet, Maintenance Requirements Manual, CSP B–053. The initial compliance times for the actions specified in Bombardier TR ALI–0472, dated February 27, 2014, are at the applicable time specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) For airplanes that have accumulated 540 total flight hours or more as of the effective date of this AD: Within 660 flight hours after the effective date of this AD.

(2) For airplanes that have accumulated less than 540 total flight hours as of the effective date of this AD: Before the accumulation of 1,200 total flight hours.

(h) No Alternative Actions or Intervals

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i)(1) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational

Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or the Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Organization Approval (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2014–16, dated June 11, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0074.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 14, 2015.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00960 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1048; Directorate Identifier 2014–NM–055–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. This proposed AD was prompted by reports that cracks can occur in a frame of the tail section on certain airplanes. This proposed AD would require a one-time detailed inspection of the oblique frame 67–2 for any cracking, and repair if necessary. We are proposing this AD to detect and correct such cracking, which could lead to failure of the oblique frame 67–2, and consequent loss of the structural integrity of the tail section.

DATES: We must receive comments on this proposed AD by March 9, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1048; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington WA 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–1048; Directorate Identifier 2014–NM–055–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0039, dated February 20, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. The MCAI states:

> Service experience has shown that cracks can occur in oblique frame 67–2 in the tail section on aeroplanes with more than 29 000 flight cycles (FC).
>
> This condition, if not detected and corrected, can result in an exponential crack growth rate, possibly leading to failure of the oblique frame 67–2 over a certain length and consequent loss of the structural integrity of the tail section of the aeroplane.
>
> For the reasons described above, this [EASA] AD requires a one-time [detailed] inspection of the oblique frame 67–2 for cracks and, depending on findings, accomplishment of a repair.
>
> Repetitive inspections are planned to be incorporated into a revision of Fokker Services Report SE–623, which is part of the Airworthiness Limitations Section of the Instructions for Continued Airworthiness, for which a separate [EASA] AD is expected to be published.
>
> Fokker Services All Operators Message AOF100.187#02 provides additional information concerning the subject addressed by this [EASA] AD.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for

and locating Docket No. FAA–2014–1048.

Related Service Information

Fokker Services B.V. has issued Service Bulletin SBF100–53–124, dated January 23, 2014; and Service Bulletin SBF100–53–125, Revision 1, dated February 13, 2014. The service information describes procedures for a one-time detailed inspection of the oblique frame 67–2 for any cracking, and repair if necessary. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Costs of Compliance

We estimate that this proposed AD affects 8 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $680, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 12 work-hours and require parts costing $0, for a cost of $1,020 per product. We have no way of determining the number of aircraft that might need this action.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Fokker Services B.V.: Docket No. FAA–2014–1048; Directorate Identifier 2014–NM–055–AD.

(a) Comments Due Date

We must receive comments by March 9, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by reports that cracks can occur in oblique frame 67–2 in the tail section on certain airplanes. We are issuing this AD to detect and correct such cracking, which could lead to failure of the oblique frame 67–2, and consequent loss of the structural integrity of the tail section.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection and Repair

For airplanes that have accumulated more than 29,000 total flight cycles since the airplane's first flight as of the effective date of this AD: Within 500 flight cycles or 12 months after the effective date of this AD, whichever occurs first, do a one-time detailed inspection of the oblique frame 67–2 for any cracking, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–124, dated January 23, 2014. For the purposes of this AD, a detailed inspection is an intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.

(h) Corrective Action

If any cracking is found during the inspection required by paragraph (g) of this AD, before further flight, repair the oblique frame 67–2, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–125, Revision 1, dated February 13, 2014.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington WA 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of

the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Fokker B.V. Service's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2014–0039, dated February 20, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1048.

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 13, 2015.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00959 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1046; Directorate Identifier 2014–NM–021–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes. This proposed AD was prompted by a determination that no instructions for continued airworthiness exist for the nose landing gear (NLG) alternate extension actuator of the NLG alternate release system. This proposed AD would require revising the maintenance or inspection program, as applicable, to incorporate a new airworthiness limitation task for the NLG alternate extension actuator. We are proposing this AD to prevent failure of the NLG alternate release system and, if the normal NLG extension system also fails, failure of the NLG to extend, and consequent damage to the airplane and injury to occupants.

DATES: We must receive comments on this proposed AD by March 9, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1046; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Luke Walker, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE 171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7363; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–1046; Directorate Identifier 2014–NM–021–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–24R1, dated December 24, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes. The MCAI states:

> It was discovered that there are no instructions for continued airworthiness for the Nose Landing Gear (NLG) alternate extension actuator. Without an effective maintenance task to maintain the aeroplane's inherent level of safety, there is a potential that a dormant failure of the alternate release system of the NLG could occur. Failure of the NLG alternate release system could prevent the nose landing gear from extending in the case of a failure of the normal NLG extension system.
>
> This [TCCA] AD is to mandate the incorporation of a new maintenance task to prevent failure of the NLG alternate release system.
>
> Revision 1 of this [TCCA] AD changes the phase-in time to be based on the NLG manual release actuators instead of aeroplanes.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for

and locating Docket No. FAA–2014–1046.

Related Service Information

Bombardier has issued Task 320100–225, ''Restoration of the NLG Manual Release Actuator,'' of Subject 1–32, Landing Gear, of Section 1, Systems and Powerplant Program, Volume 1 of Part 1, Maintenance Review Board Report, Revision 14, dated July 10, 2013, of the CRJ 700/900/1000 Maintenance Requirements Manual, CSP–B–053. This service information describes an airworthiness limitation task for the NLG alternate extension actuator. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

This proposed AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by section 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403(c)). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, an operator might not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval of an alternative method of compliance (AMOC) in accordance with the provisions of paragraph (j)(1) of this proposed AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure.

Costs of Compliance

We estimate that this proposed AD affects 416 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $35,360, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 1 work-hour and require parts costing $0, for a cost of $85 per product. We have no way of determining the number of aircraft that might need this action.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Bombardier, Inc.: Docket No. FAA–2014–1046; Directorate Identifier 2014–NM–021–AD.

(a) Comments Due Date

We must receive comments by March 9, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, serial number (S/N) 10002 and subsequent.

(2) Bombardier, Inc. Model CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes, S/N 15001 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Reason

This AD was prompted by a determination that no instructions for continued airworthiness exist for the nose landing gear (NLG) alternate extension actuator of the NLG alternate release system. We are issuing this AD to prevent failure of the NLG alternate release system and, if the normal NLG extension system also fails, failure of the NLG to extend, and consequent damage to the airplane and injury to occupants.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Maintenance or Inspection Program Revision

Within 30 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the information specified in Task 320100–225, ''Restoration of the NLG Manual Release Actuator,'' of Subject 1–32, Landing Gear, of Section 1, Systems and Powerplant Program, Volume 1 of Part 1, Maintenance Review Board Report, Revision 14, dated July 10, 2013, of the CRJ 700/900/1000 Maintenance Requirements Manual, CSP–B–053. The

initial compliance time for the task is specified in paragraph (h) of this AD.

(h) Initial Task Compliance Time

Before the accumulation of 20,000 total flight cycles, or within 5,500 flight cycles after the effective date of this AD, whichever occurs first: Perform the initial restoration specified in Task 320100–225, ''Restoration of the NLG Manual Release Actuator,'' of Subject 1–32, Landing Gear, of Section 1, Systems and Powerplant Program, Volume 1 of Part 1, Maintenance Review Board Report, Revision 14, dated July 10, 2013, of the CRJ 700/900/1000 Maintenance Requirements Manual, CSP–B–053.

(i) No Alternative Actions and Intervals

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7300; fax (516) 794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, Engine and Propeller Directorate, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Related Information

(1) Refer to MCAI Canadian Airworthiness Directive CF–2013–24R1, dated December 24, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1046.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 13, 2015.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00944 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1050; Directorate Identifier 2014–NM–123–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400 series airplanes. This proposed AD was prompted by an in-service report of an uncommanded and unannunciated nose wheel steering during airplane pushback from the gate. This proposed AD would require installing new cable assemblies with a pull-down resistor. We are proposing this AD to prevent an uncommanded nose wheel steering during takeoff or landing in the event of an open circuit in the steering system, and possible consequent runway excursion.

DATES: We must receive comments on this proposed AD by March 9, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1050; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Assata Dessaline, Aerospace Engineer, Avionics and Services Branch, ANE–172, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7301; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–1050; Directorate Identifier 2014–NM–123–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian

Airworthiness Directive CF–2013–38, dated November 28, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model DHC–8–400, –401, and –402 series airplanes. The MCAI states:

> There has been one in-service report of an un-commanded and un-annunciated nose wheel steering during aeroplane push-back from the gate. The investigation revealed that a design deficiency exists within the steering control unit (SCU) where an open circuit may not be adequately detected and annunciated to the flight crew. A sustained open circuit could result in an un-commanded and un-annunciated nose wheel steering input.
>
> Un-commanded nose wheel steering during takeoff or landing may lead to a runway excursion.
>
> This [Canadian] AD mandates the installation of new cable assemblies, with a pull-down resistor, to ensure that the nose wheel steering system reverts to fail-safe free castor mode in the event of an open circuit in the steering system.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1050.

Related Service Information

Bombardier, Inc. has issued Service Bulletin 84–32–122, Revision A, dated October 4, 2013. This service information describes procedures for incorporating Bombardier Modsum 4–126585 to install new cable assemblies with a pull-down resistor to the pilot hand control and rudder pedal potentiometer of the nose wheel steering control unit. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 81 airplanes of U.S. registry.

We also estimate that it would take about 6 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $2,541 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $247,131, or $3,051 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Bombardier, Inc.: Docket No. FAA–2014–1050; Directorate Identifier 2014–NM–123–AD.

(a) Comments Due Date

We must receive comments by March 9, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 series airplanes, certificated in any category, serial numbers 4001 through 4448 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by an in-service report of an uncommanded and unannunciated nose wheel steering during airplane pushback from the gate. We are issuing this AD to prevent an uncommanded nose wheel steering during takeoff or landing in the event of an open circuit in the steering system, and possible consequent runway excursion.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Incorporate Bombardier Modification Summary (Modsum) 4–126585

Within 2,000 flight cycles or 12 months after the effective date of this AD, whichever occurs first: Incorporate Bombardier Modsum 4–126585 to install new cable assemblies, with a pull-down resistor, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–32–122, Revision A, dated October 4, 2013.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–32–122, dated August 28, 2013.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this

AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the New York ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA; or the Transport Canada Civil Aviation (TCCA); or Bombardier, Inc., TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–38, dated November 28, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1050.

(2) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 13, 2015.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00957 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1052; Directorate Identifier 2014–NM–140–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2004–13–02, which applies to certain The Boeing Company Model 747–100, –200B, and –200F series airplanes. AD 2004–13–02 currently requires initial and repetitive inspections to find discrepancies in the upper and lower skins of the fuselage lap joints, and repair if necessary. Since we issued AD 2004–13–02, an evaluation by the design approval holder (DAH) indicates that the longitudinal lap joints are subject to widespread fatigue damage (WFD), and that a structural modification at the lap joint, and post-modification repetitive inspections of the skin, existing internal doubler, or splice strap for cracks, and corrective actions if necessary, are required to reach the limit of validity (LOV). This proposed AD would add post-repair inspections for cracking and corrosion, and repair if necessary; structural modification at the lap joints; and post-modification inspections for cracking and corrosion, and repair if necessary. We are proposing this AD to detect and correct fatigue cracking in the upper and lower skins of the fuselage lap joints, which could result in sudden fracture and failure of a lap joint and rapid in-flight decompression of the airplane fuselage.

DATES: We must receive comments on this proposed AD by March 9, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1052; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *Bill.Ashforth@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–1052; Directorate Identifier 2014–NM–140–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Structural fatigue damage is progressive. It begins as minute cracks, and those cracks grow under the action of repeated stresses. This can happen because of normal operational conditions and design attributes, or because of isolated situations or incidents such as material defects, poor fabrication quality, or corrosion pits, dings, or scratches. Fatigue damage can occur locally, in small areas or structural design details, or globally. Global fatigue damage is general degradation of large areas of structure with similar structural details and stress levels. Multiple-site damage is global damage that occurs in a large structural

element such as a single rivet line of a lap splice joining two large skin panels. Global damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site-damage and multiple-element-damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane, in a condition known as widespread fatigue damage (WFD). As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a LOV of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

On June 9, 2004, we issued AD 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004), for certain The Boeing Company Model 747–100, –200B, and –200F series airplanes. AD 2004–13–02 requires initial and repetitive inspections to find discrepancies in the upper and lower skins of the fuselage lap joints, and repair if necessary. AD 2004–13–02 resulted from reports of damage (corrosion and fatigue cracking) to certain lap joints on Model 737 series airplanes. These discrepancies have been attributed to the manufacturing process, which includes use of a cold-bonded adhesive in the lap joint configuration.

The subject area on certain Model 747–100, –200B, and –200F series airplanes is manufactured using a process similar to that used on the affected Model 737 series airplanes. Therefore, those Model 747–100, –200B, and –200F series airplanes may be subject to the same unsafe condition revealed on the Model 737 series airplanes. We issued AD 2004–13–02 to detect and correct discrepancies in the upper and lower skins of the fuselage lap joints, which could result in sudden fracture and failure of a lap joint and rapid in-flight decompression of the airplane fuselage.

Actions Since AD 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004), Was Issued

Since we issued AD 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004), an evaluation by the DAH indicates that the longitudinal lap joints are subject to WFD, and that a structural modification at the lap joint and post-modification repetitive inspections of the skin, existing internal doubler, or splice strap for cracks, and corrective actions if necessary, are required to reach the LOV.

Related Service Information

We reviewed Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014. The service information describes procedures for inspections and repairs of cracks and corrosion in the skin at lap joints in the fuselage. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1052.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004), this proposed AD would retain all of the requirements of AD 2004–13–02. Those requirements are referenced in the service information identified previously, which, in turn, is referenced in paragraphs (g) and (h) of this proposed AD. This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and the Service Information.''

The phrase ''related investigative actions'' might be used in this proposed AD. ''Related investigative actions'' are follow-on actions that: (1) Are related to the primary actions, and (2) are actions that further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

In addition, the phrase ''corrective actions'' might be used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Explanation of Changes to AD 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004)

AD 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004), allows operators to adjust the flight-cycle threshold and repetitive interval by not counting flight cycles with a cabin pressure differential of 2.0 pounds per square inch or less. However, this proposed AD would not allow this adjustment as of the effective date of this AD. The number of flight cycles in which cabin differential pressure is at 2.0 psi or less must be counted when determining the number of flight cycles that have occurred on the airplane.

The actions specified in paragraphs (g) and (h) of this proposed AD are no longer required for Group 1 airplanes identified in Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014. The only Group 1 airplane, RR201, has been permanently withdrawn from service and scrapped.

Differences Between This Proposed AD and the Service Information

Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing

Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Explanation of Compliance Time

The compliance time for the modification specified in this proposed AD for addressing WFD was established to ensure that discrepant structure is modified before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Costs of Compliance

We estimate that this proposed AD affects 2 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections [actions retained from AD 2004-13-02, Amendment 39-13682 (69 FR 35237, June 24, 2004).	5,628 work-hours × $85 per hour = $478,380 per inspection cycle.	$0	$478,380 per inspection cycle ..	$956,760 per inspection cycle.
Modification [new proposed action].	Up to 3,764 work-hours × $85 per hour = $319,940.	0	Up to $319,940	Up to $639,880.
Post-modification/post-repair inspections [new proposed action].	Up to 3,764 work-hours × $85 per hour = $319,940 per inspection cycle.	0	Up to $319,940 per inspection cycle.	Up to $639,880 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004), and adding the following new AD:

The Boeing Company: Docket No. FAA–2014–1052; Directorate Identifier 2014–NM–140–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by March 9, 2015.

(b) Affected ADs

This AD replaces AD 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004).

(c) Applicability

This AD applies to The Boeing Company Model 747–100, –200B, and –200F series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH), which indicates that the longitudinal lap joints are subject to widespread fatigue damage (WFD). We are issuing this AD to detect and correct fatigue cracking in the upper and lower skins of the fuselage lap joints, which could result in sudden fracture and failure of a lap joint and rapid in-flight decompression of the airplane fuselage.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspections for Corrosion and Corrective Actions

For airplanes identified as Groups 2 through 14 in Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014: Except as provided by paragraph (l)(3) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, do an external low frequency eddy current inspection for corrosion at the upper row of fasteners in the lap joint, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of

Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(1) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection at the upper row of fasteners in the lap joint thereafter at the applicable intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(3) of this AD. Accomplishment of a structural modification in accordance with Part 5 of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(1) of this AD, terminates the inspection requirements of this paragraph in the area of the modification only. The actions required by paragraph (j) of this AD are still applicable in the area of the modification.

(h) Inspections for Cracking and Corrective Actions

For airplanes identified as Groups 2 through 14 in Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014: Except as provided by paragraph (l)(3) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, do an internal medium frequency eddy current inspection for skin cracks at the lower row of fasteners in the lap joint, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(1) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection at the lower row of fasteners in the lap joint thereafter at the applicable intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(3) of this AD. Accomplishment of a structural modification in accordance with Part 5 of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(1) of this AD, terminates the inspection requirements of this paragraph in the area of the modification only. The actions required by paragraph (j) of this AD are still applicable in the area of the modification.

(i) Structural Modification

For airplanes identified as Groups 2 through 14 in Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(2) of this AD, do a structural modification at the lap joints, and all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(1) of this AD. Do all applicable corrective actions before further flight. Accomplishment of the structural modification required by this paragraph terminates the inspections required by paragraphs (g), (h), and (k) of this AD in the area of the modification only. The actions required by paragraph (j) of this AD are still applicable in the area of the modification.

(j) Post-Modification Inspections and Corrective Actions

For airplanes on which the actions required by paragraph (i) of this AD have been done: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(2) of this AD, do an internal high frequency eddy current (HFEC) inspection for cracks of the skin or existing internal doublers, and an open-hole HFEC inspection for splice strap cracks, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014. If any cracking is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (n) of this AD. Repeat the inspections of the skin, internal doublers, and splice straps thereafter at the applicable intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014.

(k) Post-Repair Inspections and Corrective Actions

For airplanes with any new or existing external doubler repair accomplished at a lap joint and the repair doubler length is 40 inches or longer: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(2) of this AD, do an internal HFEC inspection for cracking or corrosion of the repairs, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(1) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection of external doubler repairs accomplished at lap joints thereafter at the applicable intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014. Accomplishment of a structural modification in accordance with Part 5 of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(1) of this AD, terminates the inspection requirements of this paragraph in the area of the modification only. The actions required by paragraph (j) of this AD are still applicable in the area of the modification.

(l) Exceptions

(1) If, during any action required by this AD, Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, specifies to contact Boeing for an inspection or modification procedure, or repair instructions: Before further flight, do the inspection, or modification, or repair using a method approved in accordance with the procedures specified in paragraph (n) of this AD.

(2) Where Paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, specifies a compliance time ''after the Revision 2 date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(3) For the compliance threshold and repetitive interval calculations for inspections required by paragraphs (g) and (h) of this AD, the provisions specified in paragraphs (l)(3)(i) and (l)(3)(ii) of this AD apply regarding differential pressure.

(i) For inspections done before the effective date of this AD: Flight cycles in which the cabin differential pressure was at 2.0 pounds per square inch (psi) or less need not be counted in the flight-cycle determination, provided that flight cycles with momentary spikes in cabin differential pressure above 2.0 psi were included as full pressure flight cycles. For this provision to apply, all cabin pressure records must have been maintained for each airplane. No fleet-averaging of cabin pressure is allowed.

(ii) For inspections done on or after the effective date of this AD: All flight cycles must be counted, regardless of differential pressure.

(m) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using the service information identified in paragraph (m)(1) or (m)(2) of this AD.

(1) Boeing Alert Service Bulletin 747–53A2463, dated March 7, 2002, including Appendices A, B, and C, dated March 7, 2002, which was incorporated by reference in AD 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004).

(2) Boeing Alert Service Bulletin 747–53A2463, Revision 1, dated April 16, 2009, which is not incorporated by reference in this AD.

(n) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (o)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle

ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved for AD 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004), are approved as AMOCs for the corresponding provisions of paragraphs (g) and (h) of this AD.

(o) Related Information

(1) For more information about this AD, contact Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *Bill.Ashforth@faa.gov*.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 14, 2015.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00955 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1043; Directorate Identifier 2013–NM–079–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A330–200, A330–200 Freighter, and A330–300 series airplanes; and Model A340–200 and A340–300 series airplanes. This proposed AD was prompted by reports of cracked support strut body ends at a certain frame location of the trimmable horizontal stabilizer (THS). This proposed AD would require repetitive inspections for cracking of the strut ends of the THS support located at a certain frame in the tail cone, and replacement if necessary; and reinstallation or installation of reinforcing clamps on certain strut ends. We are proposing this AD to detect and correct cracked support strut body ends of the THS, which could lead to the loss of all four THS support struts and which would make the remaining structure unable to carry limit loads, resulting in the loss of the horizontal tail plane.

DATES: We must receive comments on this proposed AD by March 9, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330–A340@airbus.com;* Internet *http://www.airbus.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1043; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–1043; Directorate Identifier 2013–NM–079–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0068, dated March 18, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on all Airbus Model A330–200, A330–200 Freighter, and A330–300 series airplanes; and Model A340–200 and A340–300 series airplanes. The MCAI states:

> During scheduled maintenance on A330 aeroplanes, several Trimmable Horizontal Stabilizer (THS) support struts at frame (FR) 91 were found cracked at strut body ends.
>
> The THS is supported and articulated at FR 91 by four struts to fix the hinges (Y-bolts) and keep the structural integrity in lateral direction.
>
> Analysis revealed that cracks can reduce ability of the support struts to carry specified tension loads.
>
> This condition, if not detected and corrected, could lead to the loss of all four THS support struts at FR91, which would make the remaining structure unable to carry limit loads, resulting in the loss of Horizontal Tail Plane.
>
> A340–500/600 aeroplanes are not affected by this [EASA] AD as different material is used on THS support struts.
>
> To address this potentially unsafe condition, EASA issued AD 2013–0076 [*http://ad.easa.europa.eu/blob/easa_ad_2013_0076_superseded.pdf/AD-2013-0076_1*] to require repetitive special detailed inspections [high frequency eddy current (HFEC) inspections for cracking] of all 8 strut ends of the THS support located at FR91 in the tail cone and, depending on findings, replacement of THS support struts. That

[EASA] AD also required, for aeroplanes on which Airbus Modification 203493 had not been embodied in production, or Airbus Service Bulletin (SB) A330–53–3204 or SB A340–53–4199, as applicable, has not been embodied in service, the installation of a clamping device on each support strut end to stop growth of possible cracks (crack stopper function) in order to secure integrity of the struts.

Since issuance of EASA AD 2013–0076, it has been discovered that several aeroplanes are fitted with another strut configuration (SARMA Strut) [Societé Anonyme de Recherche Mécanique Appliquée] than the TAC (Technical Airborne Components Industries) strut, which caused the other strut not to be considered. Consequently, Airbus revised Airbus SB A330–53–3206 and SB A340–53–4208, accordingly in order to add a one-time [HFEC] inspection [for cracking] for SARMA struts and in case of finding to replace it with a TAC strut and thereafter to accomplish repetitive inspections and EASA issued AD 2013–0219 [*http://ad.easa.europa.eu/blob/easa_ad_2013_0219_superseded.pdf/AD-2013-0219_1*], which is superseded, and required accomplishment of the instructions as specified in the latest revision of each SB, as applicable.

Since issuance of EASA AD 2013–0219, based on the reporting received from operators, it has been determined that repetitive inspections are also to be accomplished for aeroplanes equipped with SARMA strut. Airbus introduced that inspection in the applicable SB at revision 3.

For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2013–0219, which is superseded, and requires accomplishment of repetitive [HFEC] inspective inspection [for cracking] for aeroplanes equipped with SARMA strut.

This [EASA] AD is considered as an interim action, pending the development of a terminating action.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1043.

Related Service Information

Airbus has issued the following service information:

- Airbus Service Bulletin A330–53–3206, Revision 03, dated February 28, 2014. This service information describes procedures for inspections for cracking of the strut ends of the THS support located in the airplane tail cone for Model A330 airplanes.
- Airbus Service Bulletin A340–53–4208, Revision 03, dated February 28, 2014. This service information describes procedures for inspections for cracking of the strut ends of the THS support located in the airplane tail cone for Model A340 airplanes.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Differences Between This Proposed AD and the MCAI or Service Information

Although EASA Airworthiness Directive 2014–0068, dated March 18, 2014, Airbus Service Bulletin A330–53–3206, Revision 03, dated February 28, 2014, and Airbus Service Bulletin A340–53–4208, Revision 03, dated February 28, 2014, allow further flight after certain cracks are found during compliance with the proposed action, paragraph (j)(2) of this proposed AD would require that any cracked THS support strut be replaced with a new or serviceable TAC strut before further flight.

Interim Action

We consider this proposed AD interim action. If final action is later identified, we might consider further rulemaking then.

Costs of Compliance

We estimate that this proposed AD affects 84 airplanes of U.S. registry.

We also estimate that it would take about 9 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $64,260, or $765 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition replacement specified in this proposed AD.

We estimate that any necessary follow-on strut reinforcements would take about 2 work-hours and require parts costing $5,680, for a cost of $5,850 per product. We have no way of determining the number of aircraft that might need this action.

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2014–1043; Directorate Identifier 2013–NM–079–AD.

(a) Comments Due Date

We must receive comments by March 9, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Airbus Model A330–201, –202, –203, –223, –223F, –243, and –243F airplanes.

(2) Airbus Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(3) Airbus Model A340–211, –212, –213, –311, –312, and –313 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by reports of cracked support strut body ends at a certain frame location of the trimmable horizontal stabilizer (THS). We are issuing this AD to detect and correct cracked support strut body ends of the THS, which could lead to the loss of all four THS support struts and which would make the remaining structure unable to carry limit loads, resulting in the loss of the horizontal tail plane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Definition of Strut Types

For the purpose of this AD, a Societé Anonyme de Recherche Mécanique Appliquée (SARMA) strut is a strut on which the diameter of the strut end is lower than 43 millimeters. All other struts are Technical Airborne Components Industries (TAC) struts.

(h) Repetitive Inspections of TAC Strut Ends

At the applicable time specified in paragraph (i) of this AD, do a high frequency eddy current (HFEC) inspection for cracking of all TAC strut ends of the THS support located at frame (FR) 91 in the tail cone, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–53–3206, Revision 03, dated February 28, 2014; or Airbus Service Bulletin A340–53–4208, Revision 03, dated February 28, 2014; as applicable. Repeat the inspection thereafter at intervals not to exceed 42 months or 20,000 flight hours, whichever occurs first. For airplanes on which Airbus Modification 203493 has been embodied in production, or Airbus Service Bulletin A330–53–3204 or Airbus Service Bulletin A340–53–4199, as applicable, has been embodied in service, remove the clamp from each strut end before accomplishing the inspections required by this paragraph.

(i) Compliance Times for Paragraphs (h) and (k) of This AD

Do the inspections required by paragraphs (h) and (k) of this AD at the applicable times specified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD.

(1) For Model A330 series airplanes having manufacturer serial numbers 012 through 209 inclusive, and Model A340 series airplanes having manufacturer serial numbers 002 through 210 inclusive: Within 6 months after the effective date of this AD.

(2) For Model A330 series airplanes having manufacturer serial numbers 211 through 422 inclusive, and Model A340 series airplanes having manufacturer serial numbers 212 through 447 inclusive: Within 24 months after the effective date of this AD.

(3) For Model A330 series airplanes having manufacturer serial numbers 423 and subsequent, and Model A340 series airplanes having manufacturer serial numbers 450 through 955 inclusive: Within 36 months after the effective date of this AD or since the first flight of the airplane, whichever occurs later.

(j) Corrective Action for TAC Strut Ends and Installation of Reinforcing Clamps

(1) If, during any inspection required by paragraph (h) of this AD, no cracks are found: Before further flight, reinstall or install, as applicable, reinforcing clamps on the strut ends, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–53–3206, Revision 03, dated February 28, 2014; or Airbus Service Bulletin A340–53–4208, Revision 03, dated February 28, 2014.

(2) If, during any inspection required by paragraph (h) of this AD, any crack is found: Before further flight, replace any affected strut with a new or serviceable TAC strut and install reinforcing clamps on the strut end, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–53–3206, Revision 03, dated February 28, 2014; or Airbus Service Bulletin A340–53–4208, Revision 03, dated February 28, 2014; as applicable.

(k) Repetitive Inspections of SARMA Strut Ends

At the applicable time specified in paragraph (i) of this AD, do an HFEC inspection for cracking of all SARMA strut ends of the THS support located at FR 91 in the tail cone, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–53–3206, Revision 03, dated February 28, 2014; or Airbus Service Bulletin A340–53–4208, Revision 03, dated February 28, 2014; as applicable. Repeat the inspection thereafter at intervals not to exceed 12 months.

(l) Corrective Action for SARMA Strut Ends

If any crack is found on a strut end during the inspection required by paragraph (k) of this AD: Before further flight, replace any affected SARMA strut with a new or serviceable TAC strut and install reinforcing clamps on the strut end, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–53–3206, Revision 03, dated February 28, 2014; or Airbus Service Bulletin A340–53–4208, Revision 03, dated February 28, 2014; as applicable.

(m) No Terminating Action

Replacement of THS struts on an airplane does not constitute terminating action for the repetitive inspections required by this AD.

(n) No Reporting

Although Airbus Service Bulletin A330–53–3206, Revision 03, dated February 28, 2014, and Airbus Service Bulletin A340–53–4208, Revision 03, dated February 28, 2014, specify to submit certain information to the manufacturer, this AD does not include that requirement.

(o) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) through (k) of this AD, if those actions were performed before the effective date of this AD using any of the service information identified in paragraphs (n)(1) through (n)(6) of this AD. This service information is not incorporated by reference in this AD.

(1) Airbus Service Bulletin A330–53–3206, dated February 7, 2013.

(2) Airbus Service Bulletin A330–53–3206, Revision 01, dated June 10, 2013.

(3) Airbus Service Bulletin A330–53–3206, Revision 02, dated August 8, 2013.

(4) Airbus Service Bulletin A340–53–4208, dated February 7, 2013.

(5) Airbus Service Bulletin A340–53–4208, Revision 01, dated June 10, 2013.

(6) Airbus Service Bulletin A340–53–4208, Revision 02, dated August 8, 2013.

(p) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or

the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(q) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0068, dated March 18, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1043.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 11, 2015.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00993 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0076; Directorate Identifier 2013–NM–246–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A330–200, A330–200 Freighter, and A330–300 series airplanes; and Airbus Model A340–200, A340–300, A340–500, and A340–600 series airplanes. This proposed AD was prompted by a report that, during a production flight test, the ram air turbine (RAT) did not pressurize the green hydraulic system. For certain airplanes, this proposed AD would require identification of the part number, serial number, and standard of the RAT pump, RAT module, RAT actuator, and RAT lower gearbox assembly; replacement of the balance weight screw, modification of the actuator coil spring, modification of the actuator, an inspection of the anti-stall valve for correct installation in the RAT pump housing; and corrective actions if necessary. For certain other airplanes, this proposed AD would require re-identification or replacement of the RAT module. We are proposing this AD to prevent loss of the impeller function and RAT pump pressurization capability, which, if preceded by a total engine flame-out, could result in the loss of control of the airplane.

DATES: We must receive comments on this proposed AD by March 9, 2015.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For Airbus service information identified in this proposed AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330A–340@airbus.com;* Internet *http://www.airbus.com.* For Hamilton Sundstrand service information identified in this proposed AD, contact Hamilton Sundstrand, Technical Publications, Mail Stop 302–9, 4747 Harrison Avenue, P.O. Box 7002, Rockford, IL 61125–7002; telephone 860–654–3575; fax 860–998–4564; email *tech.solutions@hs.utc.com;* Internet *http://www.hamiltonsundstrand.com.* You may view the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425 227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0076; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM 116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0076; Directorate Identifier 2013–NM–246–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0274, dated November 15, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A330–200, A330–200 Freighter, and A330–300 series airplanes; and Airbus Model A340–200, A340–300, A340–500, and A340–600 series airplanes. The MCAI states:

> During a production flight test of an A330–300 aeroplane, the Ram Air Turbine (RAT) did not pressurize the green hydraulic system. Investigation revealed that the impeller drive (hex) shaft had a reduced length of engagement with the pump drive shaft. This caused the impeller drive shaft to disengage from the pump and disconnect the impeller. It was determined that the disconnection was the result of internal hex dimensions on the pump impeller shaft, which had been changed in a manufacturing drawing. From the investigation analysis, it was possible to identify a list of affected parts.

This condition, if not detected and corrected, could lead to the loss of impeller function and RAT pump pressurization capability, possibly resulting, in case of total engine flame out, to the loss of control of the aeroplane.

To address this unsafe condition, a new design RAT pump shaft has been developed with a decreased hexagonal shaft housing depth, which increases the hexagonal drive shaft engagement in the impeller shaft to carry the impeller torque. Airbus issued Service Bulletin (SB) A330–29–3122, SB A340–29–4093 and SB A340–29–5021 to provide instructions for in-service replacement of the affected RAT hydraulic pumps, or re-identification of the RAT pump and complete RAT module, as applicable.

For the reasons described above, this [EASA] AD requires identification and replacement [modification] or re-identification of all affected RAT hydraulic pumps on A330 and A340–200/300 aeroplanes, and replacement [modification] of all affected RAT modules on A340–500/-600 aeroplanes.

For affected pumps, the required actions also include concurrent actions, as applicable, including replacement of the balance weight screw, modification of the actuator coil spring, modification of the actuator, an inspection of the anti-stall valve for correct installation in the RAT pump housing and re-installation if necessary. For affected pumps, corrective actions include replacement of the RAT hydraulic pump, and re-identification of the part number of the RAT module. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0076.

Related ADs

EASA and the FAA have issued additional ADs related to the RAT. FAA AD 2012–21–19, Amendment 39–17235 (77 FR 65812, October 31, 2012), which corresponds to EASA AD 2011–0197, dated October 10, 2011, requires an inspection of the RAT anti-stall valve in the pump housing for correct setting, re-identification of the RAT pump, performing a functional ground test of the RAT, and replacement of the RAT pump or the RAT assembly with a serviceable part if necessary. FAA AD 2012–21–19 is applicable to all Airbus Model A330–200 freighter series airplanes; Model A330–200 and -300 series airplanes; and Model A340–200 and -300 series airplanes.

The FAA also issued AD 2012–21–20, Amendment 39–17236 (77 FR 65799, October 31, 2012), which corresponds to EASA AD 2011–0204, dated October 14, 2011. FAA AD 2012–21–20 requires identification of the supplier, part number, and serial number of the RAT actuator, and re-identification of the RAT actuator and RAT, or replacement of the RAT actuator with a serviceable unit and re-identification of the RAT, if necessary. FAA AD 2012–21–20 is applicable to certain Airbus Model A330–200 freighter series airplanes, Model A330–200 and –300 series airplanes, and Model A340–200, –300, –500, and –600 series airplanes.

Related Service Information

Airbus has issued the following service information, which describes procedures for modification of the RAT pump hex shaft.

- Airbus Service Bulletin A330–29–3122, dated October 25, 2012 (for Model A330–200, –200 Freighter, and –300 series airplanes).
- Airbus Service Bulletin A340–29–4093, dated October 25, 2012 (for Model A340–200 and –300 series airplanes).
- Airbus Service Bulletin A340–29–5021, dated October 2, 2012 (for Model A340–500 and –600 series airplanes.

Hamilton Sundstrand has issued Service Bulletin ERPS06M–29–19, dated August 6, 2012, which describes procedures for checking and replacing the RAT hydraulic pump.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Clarification of Service Information

Airbus Service Bulletin A330–29–3122, dated October 25, 2012 (for Model A330–200, –200 Freighter, and –300 series airplanes), contains a typographical error in the vendor service bulletin reference. The Airbus service information in some instances references Hamilton Sundstrand Service Bulletin ''EPRS06M–29–13,'' but the correct reference is ERPS06M–29–19. Airbus is aware of the error and plans to correct it when Service Bulletin A330–29–3122 is revised.

Costs of Compliance

We estimate that this proposed AD affects 66 airplanes of U.S. registry.

We also estimate that it would take about 14 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $78,540, or $1,190 per product.

In addition, we estimate that any necessary follow-on actions would take up to 18 work-hours and require parts costing up to $427,301, for a cost of $428,831 per product. We have no way of determining the number of aircraft that might need this action.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2015–0076; Directorate Identifier 2013–NM–246–AD.

(a) Comments Due Date

We must receive comments by March 9, 2015.

(b) Affected ADs

This AD affects AD 2012–21–19, Amendment 39–17235 (77 FR 65812, October 31, 2012); and AD 2012–21–20, Amendment 39–17236 (77 FR 65799, October 31, 2012).

(c) Applicability

This AD applies to all airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(2) Airbus Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 29, Hydraulic Power.

(e) Reason

This AD was prompted by a report that, during a production flight test, the ram air turbine (RAT) did not pressurize the green hydraulic system. We are issuing this AD to prevent loss of the impeller function and RAT pump pressurization capability, which, if preceded by a total engine flame-out, could result in the loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Identification of RAT Components

For Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; and Model A340–211, –212, –213, –311, –312, and –313 airplanes: Except as provided by paragraph (i) of this AD, within 36 months after the effective date of this AD, identify the part number, serial number, and standard (through the mod-dots) of the RAT pump, RAT module, RAT actuator, and RAT lower gearbox assembly, in accordance with the Accomplishment Instructions of the applicable Airbus service information specified in paragraphs (g)(1) and (g)(2) of this AD. A review of airplane maintenance records is acceptable in lieu of this identification if the part number, serial number, and standard can be conclusively determined from that review.

(1) For Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes: Airbus Service Bulletin A330–29–3122, dated October 25, 2012.

(2) For Airbus Model A340–211, –212, –213, –311, –312, and –313 airplanes: Airbus Service Bulletin A340–29–4093, dated October 25, 2012.

(h) Corrective and Concurrent Actions

If the serial number of the RAT hydraulic pump is included in table 7, ''Suspect Hydraulic Pump Serial Numbers,'' of Hamilton Sundstrand Service Bulletin ERPS06M–29–19, dated August 6, 2012: Within 36 months after the effective date of this AD, do all applicable corrective actions, in accordance with the Accomplishment Instructions of the applicable Airbus service information specified in paragraphs (g)(1) and (g)(2) of this AD. Prior to or concurrently with doing the corrective actions required by this paragraph, do the actions specified in paragraphs (h)(1) through (h)(4) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–29–3122, dated October 25, 2012 (for Model A330–200, –200 Freighter, and –300 series airplanes); or Airbus Service Bulletin A340–29–4093, dated October 25, 2012 (for Airbus Model A340–211, –212, –213, –311, –312, and –313 airplanes).

(1) Replace the balance weight screw.

(2) Modify the actuator coil spring.

(3) Modify the actuator.

(4) Do a general visual inspection of the anti-stall valve for correct installation in the RAT pump housing, and if any incorrect installation is found, before further flight, correctly install the anti-stall valve.

(i) Exception to Service Information Specifications

Where Airbus Service Bulletin A330–29–3122, dated October 25, 2012 (for Model A330–200, –200 Freighter, and –300 series airplanes), refers to Hamilton Sundstrand Service Bulletin ''EPRS06M–29–13'' as an additional source of guidance for doing certain actions required by paragraph (h) of this AD, the correct reference should be to Hamilton Sundstrand Service Bulletin ERPS06M–29–19.

(j) Re-identification of Part Numbers

If the serial number of the RAT hydraulic pump is not included in table 7, ''Suspect Hydraulic Pump Serial Numbers,'' of Hamilton Sundstrand Service Bulletin ERPS06M–29–19, dated August 6, 2012: Within 36 months after the effective date of this AD, re-identify the part numbers of the RAT hydraulic pump and RAT module, in accordance with the Accomplishment Instructions of the applicable Airbus service information specified in paragraphs (g)(1) and (g)(2) of this AD.

(k) RAT Module Replacement (Modification)

For Airbus Model A340–541 and –642 airplanes having RAT module P/N 772722D, 772722E, 772722F, or 772722G: Within 36 months after the effective date of this AD, replace (modify) the RAT module, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–29–5021, dated October 2, 2012.

(l) Exception to Paragraphs (g), (h), and (j) of This AD

The actions required by paragraph (g), (h) and (j) of this AD are not required for airplanes on which Airbus Modification 202537 was embodied in production, provided it can be determined that, since the airplane's first flight, no RAT hydraulic pump or RAT module having a part number identified in paragraph (n) of this AD is installed on that airplane.

(m) Terminating Action for Certain Requirements of Other ADs

(1) For Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; and A340–211, –212, –213, –311, –312, and –313 airplanes: Accomplishment of the actions required by paragraphs (g), (h), and (j) of this AD constitutes compliance with the requirements of paragraphs (g)(1) and (g)(2) of AD 2012–21–19, Amendment 39–17235 (77 FR 65812, October 31, 2012); and paragraphs (g)(1) and (g)(2) of AD 2012–21–20, Amendment 39–17236 (77 FR 65799, October 31, 2012).

(2) For Airbus Model A340–541 and –642 airplanes: Accomplishment of the actions required by paragraph (k) of this AD constitutes compliance with the requirements of paragraphs (h)(1) and (h)(2) of AD 2012–21–20, Amendment 39–17236 (77 FR 65799, October 31, 2012).

(n) Parts Installation Prohibition

(1) For Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; and A340–211, –212, –213, –311, –312, and –313 airplanes: After modification of the RAT module as required by paragraph (h) of this AD, no person may install any complete RAT module having a part number (P/N) identified in paragraph (n)(1)(i) of this AD, or any RAT hydraulic pump having the part number identified in paragraph (n)(1)(ii) of this AD, on any airplane.

(i) RAT module P/N 766351, 768084, 770379, 770952, 770952A, 770952B, 1702934, 1702934A, or 1702934B.

(ii) RAT hydraulic pump P/N 5909522 (Parker P/N 4207902).

(2) For Airbus Model A340–541 and –642 airplanes: After modification of the RAT module as required by paragraph (k) of this AD, no person may install any complete RAT module having P/N 772722D, 772722E, 772722F, or 772722G, on any airplane.

(o) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM 116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(p) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0274, dated November 15, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0076.

(2) For Airbus service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* For Hamilton Sundstrand service information identified in this AD, contact Hamilton Sundstrand, Technical Publications, Mail Stop 302–9, 4747 Harrison Avenue, P.O. Box 7002, Rockford, IL 61125–7002; telephone 860–654–3575; fax 860–998–4564; email *tech.solutions@hs.utc.com;* Internet *http://www.hamiltonsundstrand.com.* You may view the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 14, 2015.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00961 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1044; Directorate Identifier 2014–NM–148–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Cessna Aircraft Company Model 500, 501, 550, 551, S550, 560, and 650 airplanes. This proposed AD was prompted by reports of smoke and/or fire in the tailcone caused by sparking due to excessive wear of the brushes in the air conditioning (A/C) motor. This proposed AD would require inspections to determine if certain A/C compressor motors are installed and to determine the accumulated hours on certain A/C compressor motor assemblies; and repetitive replacement of the brushes in the A/C compressor motor assembly, or, as an option to the brush replacement, deactivation of the A/C system and placard installation; and return of replaced brushes to Cessna. We are proposing this AD to prevent the brushes in the A/C motor from wearing down beyond their limits, which could result in the rivet in the brush contacting the commutator, causing sparks and consequent fire and/or smoke in the tailcone with no means to detect or extinguish the fire and/or smoke.

DATES: We must receive comments on this proposed AD by March 9, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, KS 67277; telephone 316–517–6215; fax 316–517–5802; email *citationpubs@cessna.textron.com;* Internet *https://www.cessnasupport.com/newlogin.html.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1044; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Craig Henrichsen, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE–119W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, KS 67209; phone: 316–946–4110; fax: 316–946–4107; email: *Craig.Henrichsen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–1044; Directorate Identifier 2014–NM–148–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have received reports of smoke/fire (three reports of fire) in the tailcone of Cessna Aircraft Company Model 525, 550, and 560 airplanes, where investigation revealed brushes had worn

beyond their limits on the part number (P/N) 1134104–1 A/C compressor motors. The motor assembly is located in the airplane tailcone where flammable fluids in the form of fuel lines and hydraulics are present. There is no fire detection or extinguishing system in the tailcone. We are proposing this AD to prevent the brushes in the air conditioning motor from wearing down beyond their limits, which could result in the rivet in the brush contacting the commutator, causing sparks and consequent fire and/or smoke in the tailcone with no means to detect or extinguish the fire and/or smoke.

The subject part, P/N 1134104–1 A/C compressor motors, might also be installed on Model 500, 501, 551, S550, and 650 airplanes. Therefore, those Model 500, 501, 551, S550, and 650 airplanes might be subject to the unsafe condition revealed on Model 525, 550, and 560 airplanes.

Related ADs

AD 2013–09–11, Amendment 39–17453 (78 FR 32349, May 30, 2013), was issued for certain Cessna Aircraft Company Model 500, 501, 550, 551, S550, 560, 560XL, and 650 airplanes. AD 2013–09–11 requires inspecting to determine if certain A/C compressor motors are installed and to determine the accumulated hours on certain A/C compressor motor assemblies; and repetitive replacement of the brushes in the A/C compressor motor assembly, or, as an option to the brush replacement, deactivation of the A/C system and placard installation; and return of replaced brushes to Cessna.

After AD 2013–09–11, Amendment 39–17453 (78 FR 32349, May 30, 2013), was published the FAA received several questions asking if AD 2013–09–11 is applicable to airplanes having an air conditioning system installed via any of the following Fort Worth Airworks supplemental type certificates (STCs):

- SA3849SW (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/029C5719AD18E79C86257C1A0069742C?OpenDocument&Highlight=sa3849sw*);
- SA7580SW (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/7C9B0FB7D5923D4986257C1A0069E2C0?OpenDocument&Highlight=sa7580sw*);
- SA7753SW (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/A78233CBB3314BAF86257C1A0069D128?OpenDocument&Highlight=sa7753sw*); or
- SA8918SW (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/5FAD7ABA3EAA464C86257C1A0069F239?OpenDocument&Highlight=sa8918sw*).

The A/C compressor motor part numbers installed via these STCs are the same as in AD 2013–09–11, except the prefix ''FWA'' has been added to the part numbers of the A/C compressor motor installed via the STCs (FWA1134104–1 or FWA1134104–5).

Based on a discussion between the FAA and Cessna, we determined that AD 2013–09–11, Amendment 39–17453 (78 FR 32349, May 30, 2013), should also apply to A/C compressor motor airplanes with P/N FWA1134104–1 or P/N FWA1134104–5 installed. Instead of superseding AD 2013–09–11 to add these airplanes to the applicability, the FAA is issuing this new proposed AD applicable only to airplanes with P/N FWA1134104–1 or P/N FWA1134104–5 installed.

Cessna Model 560XL airplanes are not included in the applicability of this proposed AD because the Fort Worth Airworks STCs identified previously are not installed on that airplane model.

AD 2013–08–05, Amendment 39–17422 (78 FR 24343, April 25, 2013), addresses the same unsafe condition that prompted this proposed AD. AD 2013–08–05 is applicable to Cessna Aircraft Company Model 525 airplanes. The Fort Worth Airworks STCs referenced above do not apply to the Cessna Model 525 airplanes; therefore, this proposed AD does not affect AD 2013–08–05.

After AD 2013–08–05, Amendment 39–17422 (78 FR 24343, April 25, 2013); and AD 2013–09–11, Amendment 39–17453 (78 FR 32349, May 30, 2013); were published, the FAA determined that there are some airplanes on which the air conditioning motor system had been installed via the Fort Worth Airworks STCs mentioned previously, and an A/C compressor hour meter was not part of the type design. To assist in future compliance with this proposed AD, an A/C compressor hour meter may be installed. The installation can be done using Cessna Service Letter CIL–21–02, dated January 23, 2014, or by a method approved by the FAA.

Related Service Information

We have reviewed the following service information, which describes procedures for replacement of life-limited components including P/N FWA1134104–1 or FWA1134104–5 A/C compressor motor brushes.

- Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 6, dated June 23, 2014, of the Cessna Model 500/501 Maintenance Manual.
- Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 10, dated June 23, 2014, of the Cessna Model 550/551 Maintenance Manual.
- Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 12, dated June 23, 2014, of the Cessna Model 550 Bravo Maintenance Manual.
- Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 9, dated June 23, 2014, of the Cessna Model S550 Maintenance Manual.
- Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 22, dated June 23, 2014, of the Cessna Model 560 Maintenance Manual.
- Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 32, dated June 23, 2014, of the Cessna Model 650 Maintenance Manual.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Proposed AD Requirements

This proposed AD would require an inspection to determine if certain A/C compressor motors are installed; an inspection of the A/C compressor hour meter for certain A/C compressor motors to determine the number of hours accumulated on the motors; and repetitive replacement of the brushes in the A/C compressor motor assembly, or optional deactivation of the A/C system and installation of a placard prohibiting use of the A/C system until replacement of the brushes. This proposed AD would also require, when the brushes are replaced, reporting aircraft information related to the replacement of the brushes and sending the replaced motor brushes to Cessna Aircraft Company for two replacement cycles.

Interim Action

We consider this proposed AD interim action. The reporting data required by this proposed AD will enable us to obtain better insight into brush wear. The reporting data will also indicate if the replacement intervals we established are adequate. After we analyze the reporting data received, we might consider further rulemaking.

Costs of Compliance

We estimate that this proposed AD affects 333 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS—BRUSH REPLACEMENT

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and replacement.	11 work-hours × $85 per hour = $935 per replacement cycle.	$252	$1,187 per replacement cycle.	$395,271 per replacement cycle.
Reporting/return parts	1 work-hour × $85 per hour = $85 per return.	$0	$85	$4,995 per return (2 returns required).

ESTIMATED COSTS—A/C DEACTIVATION

Action	Labor cost	Parts cost	Cost per product
Fabrication of placard for A/C deactivation	1 work-hour × $85 per hour = $85	$0	$85
Deactivation/reactivation of A/C	1 work-hour × $85 per hour = $85	0	85

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Cessna Aircraft Company: Docket No. FAA–2014–1044; Directorate Identifier 2014–NM–148–AD.

(a) Comments Due Date

We must receive comments by March 9, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Cessna Aircraft Company airplanes, certificated in any category, identified in table 1 to paragraph (c) of this AD, that have an air conditioning system installed via a Fort Worth Airworks supplemental type certificate (STC) identified in paragraph (c)(1), (c)(2), (c)(3), or (c)(4) of this AD.

(1) SA3849SW (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/029C5719AD18E79C86257C1A0069742C?OpenDocument&Highlight=sa3849sw*).

(2) SA7580SW (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/7C9B0FB7D5923D4986257C1A0069E2C0?OpenDocument&Highlight=sa7580sw*).

(3) SA7753SW (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/A78233CBB3314BAF86257C1A0069D128?OpenDocument&Highlight=sa7753sw*).

(4) SA8918SW (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/5FAD7ABA3EAA464C86257C1A0069F239?OpenDocument&Highlight=sa8918sw*).

TABLE 1 TO PARAGRAPH (C) OF THIS AD—AFFECTED AIRPLANE MODELS AND SERIAL NUMBERS

Cessna aircraft company airplane models	Serial Nos. (S/Ns)
Model 500 and 501 airplanes	0001 through 0689 inclusive.
Model 550 and 551 airplanes	0002 through 0733 inclusive, and 0801 through 1136 inclusive.
Model S550 airplanes	0001 through 0160 inclusive.
Model 560 airplanes	0001 through 0707 inclusive, and 0751 0751 through 0815 inclusive.
Model 650 airplanes	0200 through 0241 inclusive, and 7001 7001 through 7119 inclusive.

(d) Subject

Air Transport Association (ATA) of America 21, Air Conditioning.

(e) Unsafe Condition

This AD was prompted by reports of smoke and/or fire in the tailcone caused by sparking due to excessive wear of the brushes in the air conditioning (A/C) motor. We are issuing this AD to prevent the brushes in the A/C motor from wearing down beyond their limits, which could result in the rivet in the brush contacting the commutator, causing sparks and consequent fire and/or smoke in the tailcone with no means to detect or extinguish the fire and/or smoke.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection for Part Number (P/N)

Within 30 days or 10 flight hours after the effective date of this AD, whichever occurs first: Inspect the A/C compressor motor to determine whether P/N FWA1134104–1 or P/N FWA1134104–5 is installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the A/C compressor motor can be conclusively determined from that review.

(h) Inspection of Compressor Hour Meter and Maintenance Records

If, during the inspection required by paragraph (g) of this AD, any A/C compressor motor having P/N FWA1134104–1 or P/N FWA1134104–5 is found: Within 30 days or 10 flight hours after the effective date of this AD, whichever occurs first, determine the hour reading on the A/C compressor hour meter as specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Inspect the number of hours accumulated on the A/C compressor hour meter.

(2) Check the airplane logbook for any entry for replacing the A/C compressor motor brushes with new brushes, or for replacing the compressor motor or compressor condenser module assembly (pallet) with a motor or assembly that has new brushes.

(i) If the logbook contains an entry for replacement of parts, as specified in paragraph (h)(2) of this AD, determine the number of hours accumulated on the A/C compressor motor brushes by comparing the number of hours on the compressor motor since replacement and use this number in lieu of the number determined in paragraph (h)(1) of this AD.

(ii) If, through the logbook check, a determination cannot be made regarding the number of hours accumulated on the A/C compressor motor brushes, as specified in paragraph (h)(2) of this AD, use the number of hours accumulated on the A/C compressor hour meter determined in paragraph (h)(1) of this AD, or presume the brushes have over 500 hours' time-in-service.

(i) Replacement

Using the hour reading on the A/C compressor hour meter determined in paragraph (h) of this AD, replace the A/C compressor motor brushes with new brushes at the later of the times specified in paragraphs (i)(1) and (i)(2) of this AD. Thereafter, repeat the replacement of the A/C compressor motor brushes at intervals not to exceed 500 hours' time-in-service on the A/C compressor motor. Do the replacement in accordance with the applicable Cessna maintenance manual subject specified in paragraphs (j)(1) through (j)(6) of this AD.

(1) Before the accumulation of 500 total hours' time-in-service on the A/C compressor motor.

(2) Before further flight after doing the inspection required in paragraph (h) of this AD.

(j) Maintenance Manual Information for Replacement

Use the instructions in the applicable Cessna maintenance manual subject specified in paragraphs (j)(1) through (j)(6) of this AD to do the replacement required by paragraph (i) of this AD.

(1) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 6, dated June 23, 2014, of the Cessna Model 500/501 Maintenance Manual.

(2) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 10, dated June 23, 2014, of the Cessna Model 550/551 Maintenance Manual.

(3) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 12, dated June 23, 2014, of the Cessna Model 550 Bravo Maintenance Manual.

(4) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 9, dated June 23, 2014, of the Cessna Model S550 Maintenance Manual.

(5) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 22, dated June 23, 2014, of the Cessna Model 560 Maintenance Manual.

(6) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 32, dated June 23, 2014, of the Cessna Model 650 Maintenance Manual.

(k) Deactivation of the A/C System

In lieu of replacing the A/C compressor motor brushes as required by this AD, deactivate the A/C system as specified in paragraph (k)(1) or (k)(2) of this AD, as applicable.

(1) For all airplanes except Model 650 airplanes: Pull the vapor cycle A/C circuit breaker labeled ''AIR COND,'' do the actions specified in paragraphs (k)(1)(i) and (k)(1)(ii) of this AD, and document deactivation of the system in the airplane logbook, referring to this AD as the reason for deactivation.

(i) Fabricate a placard that states: ''A/C DISABLED'' with 1/8-inch black lettering on a white background.

(ii) Install the placard on the airplane instrument panel within 6 inches of the A/C selection switch.

(2) For Model 650 airplanes: Pull the vapor cycle A/C circuit breaker labeled ''FWD EVAP FAN,'' do the actions specified in paragraphs (k)(1)(i) and (k)(1)(ii) of this AD, and document deactivation of the system in the airplane logbook, referring to this AD as the reason for deactivation.

Note 1 to paragraph (k) of this AD: While the A/C system is deactivated, it is recommended that airplane operators remain aware of the operating temperature limitations specified in the applicable airplane flight manual.

(l) Reactivation of the A/C System

If the A/C system is deactivated, as specified in paragraph (k) of this AD, prior to the A/C system being reactivated: Perform the inspection specified in paragraph (h) of this AD, and do the replacements specified in paragraph (i) of this AD, at the times specified in paragraph (i) of this AD. Return the A/C system to service by doing the actions specified in paragraph (l)(1) or (l)(2) of this AD, as applicable.

(1) For all airplanes except Model 650 airplanes: Push in the vapor cycle A/C circuit breaker labeled ''AIR COND,'' remove the placard by the A/C selection switch that states ''A/C DISABLED,'' and document reactivation of the system in the airplane logbook.

(2) For Model 650 airplanes: Push in the vapor cycle A/C circuit breaker labeled ''FWD EVAP FAN,'' remove the placard by the A/C selection switch that states ''A/C DISABLED,'' and document reactivation of the system in the airplane logbook.

(m) Parts Return and Reporting Requirements

For the first two A/C compressor motor brush replacement cycles on each airplane, send the removed brushes to Cessna Aircraft Company, Cessna Service Parts and

Programs, 7121 Southwest Boulevard, Wichita, KS 67215. Provide the brushes and the information specified in paragraphs (m)(1) through (m)(6) of this AD within 30 days after the replacement if the replacement was done on or after the effective date of this AD, or within 30 days after the effective date of this AD if the replacement was done before the effective date of this AD.

(1) The model and serial number of the airplane.

(2) The part number of the motor.

(3) The part number of the brushes, if known.

(4) The elapsed time, in motor hours, since the last brush/motor replacement, if known.

(5) If motor hours are unknown, report the elapsed airplane flight hours since the last brush/motor replacement, and indicate that motor hours are unknown.

(6) The number of motor hours currently displayed on the pallet hour meter, if installed.

(n) Parts Installation Limitation

As of the effective date of this AD, no person may install an A/C compressor motor having P/N FWA1134104–1 or P/N FWA1134104–5, unless the inspection specified in paragraph (h) of this AD is done before installation, and the replacements specified in paragraph (i) of this AD are subsequently done in accordance with the applicable service information identified in paragraphs (j)(1) through (j)(6) of this AD at the times specified in paragraph (i) of this AD.

(o) Special Flight Permit Limitation

Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) with the following limitation: Operation of the A/C system is prohibited.

(p) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(q) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (r)(1) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(r) Related Information

(1) For more information about this AD, contact Craig Henrichsen, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE–119W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, KS 67209; phone: 316 946 4110; fax: 316 946 4107; email: *Craig.Henrichsen@faa.gov.*

(2) For service information identified in this AD, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, KS 67277; telephone 316–517–6215; fax 316–517–5802; email *citationpubs@cessna.textron.com;* Internet *https://www.cessnasupport.com/newlogin.html.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 11, 2015.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00994 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1051; Directorate Identifier 2014–NM–171–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A319, A320, and A321 series airplanes. This proposed AD was prompted by reports that on airplanes equipped with sharklets, discretes (used to activate the load alleviation function) are connected on various flight computers using the same ground point. In these cases, the ground point segregation is no longer effective and a single failure could lead to loss of sharklet identification by flight computers causing a return to the wing tip fence (no sharklet configuration) performance. This proposed AD would require modification of the sharklet ground connection. We are proposing this AD to prevent loss of sharklet identification by the flight computers and subsequent reduced control of the airplane.

DATES: We must receive comments on this proposed AD by March 9, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus, Airworthiness Office–EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email account.airworth *eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1051; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116,

Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–1051; Directorate Identifier 2014–NM–171–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0186, dated August 19, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A319, A320, and A321 series airplanes. The MCAI states:

> During A320 Neo review, Airbus design office identified that on A320 family aeroplanes equipped with sharklets, discretes used to activate the load alleviation function are connected on various flight computers using the same ground point. In that case, the ground point segregation is no longer effective and a single failure could lead to loss of sharklet identification by the flight computers, inducing a return to the wing tip fence (no sharklet configuration) behaviour.
>
> This condition, if not corrected, could lead to reduced control of the aeroplane, depending on aeroplane configuration and flight phase.
>
> It has been determined that Airbus mod 156108 restores the correct segregation. However, since introduction of sharklet mod 160500 and mod 160023, a number of aeroplanes equipped with sharklets have been delivered without incorporating mod 156108. In addition, mod 156108 was not included in certain SBs [Service Bulletin] that introduce the sharklet device in service onto aeroplanes with a reinforced wing, previously operated with a wing tip fence. Airbus mod 156108 has now been introduced into Airbus SB A320–57–1186 at Rev.03 and will be introduced at next revisions of SB A320–57–1173 and SB A320–57–1187.
>
> To address this potential unsafe condition, Airbus published SB A320–27–1240 for in-service installation of mod 156108.
>
> For the reasons described above, this [EASA] AD requires modification of the sharklet ground connection.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1051.

Related Service Information

Airbus has issued Service Bulletin A320–27–1240, including Appendix 01, dated June 18, 2014. The service information describes procedures for modification of the sharklet ground connection. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 46 airplanes of U.S. registry.

We also estimate that it would take about 14 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $347 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $70,702, or $1,537 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2014–1051; Directorate Identifier 2014–NM–171–AD.

(a) Comments Due Date

We must receive comments by March 9, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes, certificated in any category, identified in

paragraphs (c)(1), (c)(2), and (c)(3) of this AD, all manufacturer serial numbers on which Airbus modification (mod) 160500 or mod 160023 has been embodied in production, and those that have been modified in service through the Airbus Service Bulletin A320–57–1173, A320–57–1186, and A320–57–1187 except those on which Airbus mod 156108 has been embodied in production.

(1) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(2) Model A320–211, –212, –214, –231, –232, and –233 airplanes.

(3) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by reports that on airplanes equipped with sharklets, discretes (used to activate the load alleviation function) are connected on various flight computers using the same ground point. In these cases, the ground point segregation is no longer effective and a single failure could lead to loss of sharklet identification by flight computers causing a return to the wing tip fence (no sharklet configuration) performance. We are issuing this AD to prevent loss of sharklet identification by the flight computers and subsequent reduced control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Modification

Within 24 months after the effective date of this AD, modify the sharklet ground connection, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1240, dated June 18, 2014.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM 116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2014–0186, dated August 19, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1051.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office–EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 13, 2015.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00945 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1049; Directorate Identifier 2013–NM–110–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This proposed AD was prompted by reports of the horizontal stabilizer trim actuator (HSTA) spur gear bolts inside the gearbox found loose, broken, or backed out due to incorrect bending of the anti-rotation tab washer and the improper application of glue during installation. This proposed AD would require replacing certain HSTAs with a new HSTA. This proposed AD would also require revising the airplane flight manual (AFM) and the maintenance or inspection program, as applicable. We are proposing this AD to prevent failure of the HSTA and subsequent loss of control of the airplane.

DATES: We must receive comments on this proposed AD by March 9, 2015.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Luke Walker, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7363; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about

this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–1049; Directorate Identifier 2013–NM–110–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–14, dated June 4, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The MCAI states:

> There have been a number of reports where the HSTA spur gear bolts inside the gearbox were found loose, broken or backed out. Investigation revealed that the root cause is incorrect bending of the anti-rotation tab washer and the improper application of Loctite glue during installation.
>
> The function of these bolts is to generate sufficient preload between the two spur gears such that the full torque is transferred by friction between the two spur gears. Loosening of the bolts would reduce the pre-load between two spur gears and decrease the torque transfer. Partial or full torque would be re-distributed to the secondary load path (Tie-Rod) in torsion. The Tie-Rod is designed to withstand axial load only in case of failure of the primary load path (ACME screw), and not torsional load. The secondary load path (Tie-Rod) is therefore considered ineffective and no longer provides protection as a failsafe design of the system. Loose bolt(s) on the HSTA spur gear combined with the failure of the primary load path, could lead to failure of the HSTA and subsequent loss of the aeroplane.
>
> In addition, Bombardier Aerospace (BA) has introduced a modified HSTA [part number] P/N 601R92305–5 (vendor P/N 8396–4) to rectify the loose bolt problem. However, this modified HSTA, has several quality control problems which could affect safety.
>
> This [Canadian] AD is issued to mandate the replacement of the affected HSTA(s) with the new HSTA P/N 601R92305–7 (vendor P/N 8396–5).

This proposed AD also would require revising the AFM and maintenance or inspection program, as applicable. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1049.

Related Service Information

Bombardier has issued the following service information.

- Bombardier Service Bulletin 601R–27–161, Revision A, dated January 30, 2014. This service information describes procedures for installing an HSTA.
- Bombardier CL–600–2B19, Temporary Revision 2A–56, dated June 4, 2012, to Appendix A, Certification Maintenance Requirements (CMR), of Part 2, Airworthiness Requirements, of the Bombardier CL–600–2B19 Maintenance Requirements Manual (MRM). This service information adds new CMR tasks to the Airworthiness Requirements of the MRM. These CMR tasks include an inspection, functional check, and operational check.
- Bombardier Model CL–600–2B19 Airplane Flight Manual, CSP A–012, Volume 3, Revision 61, dated April 2, 2013. This service information revises the Limitations section of the AFM to include a horizontal stabilizer trim check before the first flight of the day. In addition, this service information revises the Normal Procedures section of the AFM to include details for the horizontal stabilizer trim check portion of the procedure.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 85 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
HSTA replacement	8 work-hours × $85 per hour = $680	$38,569	$39,249	$3,336,165
Revise airplane flight manual	1 work-hour × $85 per hour = $85	0	85	7,225
Revise maintenance or inspection program.	1 work-hour × $85 per hour = $85	0	85	7,225

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Bombardier, Inc.: Docket No. FAA–2014–1049; Directorate Identifier 2013–NM–110–AD.

(a) Comments Due Date

We must receive comments by March 9, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7003 and subsequent, equipped with horizontal stabilizer trim actuator (HSTA) part number (P/N) 601R92305–1 (vendor P/N 8396–2), 601R92305–3 (vendor P/N 8396–3), or 601R92305–5 (vendor P/N 8396–4).

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by reports of the HSTA spur gear bolts inside the gearbox found loose, broken, or backed out due to incorrect bending of the anti-rotation tab washer and the improper application of Loctite glue during installation. We are issuing this AD to prevent failure of the HSTA and subsequent loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Airplane Flight Manual (AFM) Revision

Within 30 days after the effective date of this AD, revise the Limitations section and Normal Procedures section of the AFM to include the information in Supplement 23, ''Horizontal Stabilizer Trim Check,'' of Chapter 7 ''Supplements,'' of Bombardier CL–600–2B19 Airplane Flight Manual CSP A–012, Volume 3, Revision 61, dated April 2, 2013.

(h) Maintenance/Inspection Program Revision

Within 30 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate Task C27–40–103–04, ''Operational Check (ground maintenance test) of the horizontal stabilizer trim control unit,'' specified in Bombardier CL–600–2B19 Temporary Revision 2A–56, dated June 4, 2012, to Appendix A, Certification Maintenance Requirements, of Part 2, Airworthiness Requirements, of the Bombardier CL–600–2B19 Maintenance Requirements Manual (MRM). The compliance time for the initial operational check is within 500 flight hours after the effective date of this AD.

(i) No Alternative Actions or Intervals

After accomplishing the revision required by paragraph (h) of this AD, no alternative actions (*e.g.,* inspections) and/or intervals may be used unless the actions and/or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (m) of this AD.

(j) HSTA Replacement

(1) For airplanes equipped with an HSTA having P/N 601R92305–1 (vendor P/N 8396–2) or P/N 601R92305–3 (vendor P/N 8396–3): At the earlier of the times specified in paragraphs (j)(1)(i) and (j)(1)(ii) of this AD, replace the HSTA with a new HSTA having P/N 601R92305–7 (vendor P/N 8396–5), in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–27–161, Revision A, dated January 30, 2014. The compliance times specified in paragraphs (j)(1)(i) and (j)(1)(ii) of this AD do not alleviate any existing life limit requirements.

(i) Within 3,700 flight hours after the effective date of this AD.

(ii) Within 27 months after the effective date of this AD.

(2) For airplanes equipped with an HSTA having P/N 601R92305–5 (vendor P/N 8396–4): At the earlier of the times specified in paragraphs (j)(2)(i), (j)(2)(ii), and (j)(2)(iii) of this AD, replace the HSTA with a new HSTA having P/N 601R92305–7 (vendor P/N 8396–5), in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–27–161, Revision A, dated January 30, 2014. The compliance times specified in paragraphs (j)(2)(i), (j)(2)(ii), and (j)(2)(iii) of this AD do not alleviate any existing life limit requirements.

(i) Within 4,400 flight hours after the effective date of this AD.

(ii) Within 32 months after the effective date of this AD.

(iii) Before the accumulation of 10,000 total flight hours on HSTA P/N 60192305–5 (vendor P/N 8396–4).

(k) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (j) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 601R–27–161, dated May 31, 2012, which is not incorporated by reference in this AD.

(l) Parts Installation Limitations

(1) As of the effective date of this AD, no person may install an HSTA, P/N 601R92305–1 (vendor P/N 8396–2) or P/N 601R92305–3 (vendor P/N 8396–3) on any Model CL–600–2B19 airplane.

(2) As of the effective date of this AD, no person may install an HSTA, P/N 601R92305–5 (vendor P/N 8396–4) having serial number (S/N) 287, 724, 813, 841, 998, 1031, 1035, 1049, 1053, 1067, 1068, 1136, 1252, 1268, 1303, 1319, 1338, 1354, 1374, 1378, 1445, 1470, 1498, 1513, 1546, 1632, 1736, 1766, 1846, 1849, 2002 through 2009 inclusive, 2011, 2013 through 2016 inclusive, 2019, 2020, or 2022, on any Model CL–600–2B19 airplane.

(3) As of the effective date of this AD: Replacement of an HSTA, P/N 601R92305–1 (vendor P/N 8396–2), P/N 601R92305–3 (vendor P/N 8396–3), or P/N 601R92305–5 (vendor P/N 8396–4), with an HSTA having P/N 601R92305–5 (vendor P/N 8396–4) that is not identified in paragraph (l)(2) of this AD, is acceptable, provided the actions required by paragraph (j)(2) of this AD are accomplished within the compliance time specified in that paragraph.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, Engine and Propeller Directorate, FAA; or Transport Canada Civil Aviation (TCCA); or

Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–14, dated June 4, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1049.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 13, 2015.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00958 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1045; Directorate Identifier 2014–NM–031–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A310 and Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes) series airplanes. This proposed AD was prompted by a report of skin disbonding and damage found on the composite side panel of the rudder, located between the rudder core and skin of a previously repaired area. This proposed AD would require an inspection for disbonding or damage of certain rudders, and related investigative actions and corrective actions if necessary. We are proposing this AD to detect and correct disbonding and damage of the rudder, which could result in reduced structural integrity of the rudder and consequent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by March 9, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1045; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425- 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–1045; Directorate Identifier 2014–NM–031–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0026, dated January 28, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> A case of skin disbonding was reported on a composite side of a rudder installed on an A310 aeroplane.
>
> The investigation results revealed that this disbonding started from a skin panel area previously repaired in-service in accordance with the Structural Repair Manual (SRM).
>
> The initial damage has been identified as a disbonding between the core and the repaired area. This damage may not be visually detectable and likely propagates during normal operation due to the variation of pressure during ground-air-ground cycles.
>
> This condition, if not detected and corrected, could affect the structural integrity of the rudder, possibly resulting in reduced control of the aeroplane.
>
> For the reasons described above, this [EASA] AD requires a one-time thermography inspection of each repaired rudder or rudder whose maintenance records are incomplete and, depending on findings, accomplishment of applicable corrective and follow-up actions.

Related investigative actions include doing a pulse thermography inspection for disbonding or damage of the left- and right-hand rudder side shells; a core ventilation through the inner skin, an elasticity laminate checker or ultrasonic inspection around the identified repairs in the booster area, and around identified fluid ingress; and a Tap test inspection of the glass fiber reinforced plastic area to identify skin-to-core disbonding and on identified repairs.

Corrective actions include repairing or replacing any disbonded or damaged rudder.

Depending on configuration and inspection results, the repetitive inspection intervals are 750 or 1,000 flight cycles; or 500 flight hours or 4 months, whichever occurs later.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1045.

Related Service Information

Airbus has issued Service Bulletins A300–55–6050; and A310–55–2051; both Revision 01, dated August 20, 2014. The service information describes procedures for inspecting the left- and right-hand rudder side shells for disbonding or damage, and related investigative actions and corrective actions if necessary. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Difference Between This Proposed AD and the MCAI or Service Information

Airbus Service Bulletins A300–55–6050; and A310–55–2051; both Revision 01, dated August 20, 2014; do not provide corrective action for certain conditions. This proposed AD would require repairing the damage using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

Costs of Compliance

We estimate that this proposed AD affects 199 airplanes of U.S. registry.

We also estimate that it would take about 4 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $67,660, or $340 per product.

We have received no definitive data that would enable us to provide a cost estimate for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2014–1045; Directorate Identifier 2014–NM–031–AD.

(a) Comments Due Date

We must receive comments by March 9, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes; Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; A300 B4–605R and B4–622R airplanes; and A300 F4–605R and F4–622R, and A300 C4–605R Variant F airplanes; certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Reason

This AD was prompted by a report of skin disbonding and damage found on the composite side panel of the rudder, located between the rudder core and skin of a previously repaired area. We are issuing this AD to detect and correct disbonding and damage of the rudder, which could result in reduced structural integrity of the rudder, and consequent reduced controllability of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Rudder Assembly Identification

Within 4 months after the effective date of this AD: Check the applicable rudder maintenance records to determine if any composite side shell panel repair has been done since first installation of the rudder, and do the applicable actions specified in paragraph (g)(1) or (g)(2) of this AD at the time specified in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A300–55–6050; or A310–55–2051; both Revision 01, dated August 20, 2014; as applicable, except as provided by paragraph (j)(3) of this AD.

(1) If a repair is identified based on the maintenance records: Perform a rudder thermography inspection of the repaired area only for disbonding or damage, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–55–6050; or A310–55–2051; both Revision 01, dated August 20, 2014; as applicable.

(2) If the rudder maintenance records are unavailable or incomplete: Perform a rudder

thermography inspection of the complete side shell panels to identify and mark the repair locations for disbonding or damage, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–55–6050; or A310–55–2051; both Revision 01, dated August 20, 2014; as applicable.

(h) Related Investigative Actions/Repair or Replace

If any disbonding or damage is found during any inspection required by paragraph (g)(1) or (g)(2) of this AD: Do the actions required by paragraphs (h)(1) and (h)(2) of this AD, as applicable.

(1) At the time specified in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A300–55–6050; or A310–55–2051; both Revision 01, dated August 20, 2014; as applicable, except as required by paragraph (j)(2) of this AD; do the applicable related investigative actions identified in Tables 3, 4A, 4B, 4C, 4D, and 5 of paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A300–55–6050; or A310–55–2051; both Revision 01, dated August 20, 2014; as applicable, to determine the type and extent of the disbonding or damage, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–55–6050; or A310–55–2051; both Revision 01, dated August 20, 2014; as applicable. Repeat the applicable inspection at the time specified in paragraph 1.E., ''Compliance'' of Airbus Service Bulletin A300–55–6050; or A310–55–2051; both Revision 01, dated August 20, 2014; as applicable.

(2) Before further flight: Repair any disbonding or damage found during any inspection required by paragraph (h)(1) of this AD, or replace any affected rudder, as applicable, in accordance with the Accomplishment Instructions Airbus Service Bulletin A300–55–6050; or A310–55–2051; both Revision 01, dated August 20, 2014; as applicable, except as required by paragraph (j)(4) of this AD.

(i) Repair Using SRM Procedure Not Allowed

As of the effective date of this AD, do not accomplish a composite side shell panel repair on any rudder using an SRM procedure identified in Figure A–GBBAA (Sheet 01 and 02) or Figure A–GBCAA (Sheet 02) of Airbus Service Bulletin A310–55–2051; or Figure A–GBBAA (Sheet 01, 02, or 03) or Figure A–GBCAA (Sheet 02 or 04) of Airbus Service Bulletin A300–55–6050; as applicable.

(j) Exceptions to Service Information

(1) Where Airbus Service Bulletins A300–55–6050; and A310–55–2051; both dated September 11, 2012; specify a compliance time ''from original service bulletin issue date,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Airbus Service Bulletins A300–55–6050; and A310–55–2051 both dated September 11, 2012; specify to contact Airbus for appropriate action: Before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(3) Airplanes on which a rudder is installed having a serial number that is not in the range HF–1005 through HF–1323, inclusive; HF–1325, HF–1327, HF–1329, HF–1331, HF–1332, HF–1340, TS–1324, TS–1326, TS–1328, TS–1330, TS–1333 through TS–1339, inclusive; TS–1341 through TS–1420, inclusive; or TS–2001 through TS–2197, inclusive; are not affected by the requirements of paragraphs (g) and (h) of this AD, provided that no repairs have been done on the composite side shell panel of that rudder since installation in accordance with the applicable structural repair manual (SRM).

(4) The compliance time for the initial detailed inspection of the restored area for loose or lost tape identified in Tables 3 and 4 of paragraph 1.E., ''Compliance,'' of Airbus Service Bulletins A300–55–6050 and A310–55–2051, both Revision 01, dated August 20, 2014; specifies ''within 500 FH or 4 months after closing holes.'' This AD requires this action within 500 flight hours or 4 months, whichever occurs later after the holes are closed.

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A300–55–6050; or A310–55–2051; both dated September 11, 2012; as applicable; which are not incorporated by reference in this AD.

(l) Parts Installation Limitations

As of the effective date of this AD, no person may install any affected rudder on any airplane, unless the actions required by paragraphs (g) and (h) of this AD have been accomplished.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information EASA Airworthiness Directive 2014–0026, dated January 28, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1045.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 13, 2015.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00946 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0075; Directorate Identifier 2014–NM–202–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2013–26–08, which applies to certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. AD 2013–26–08 currently requires inspecting the orientation of both sides of the coil cord connector keyways of the number 2 windows on the flight deck; re-clocking the connector keyways, if necessary; and replacing the coil cord assemblies on both number 2 windows on the flight deck. Since we issued AD 2013–26–08, we have determined that additional airplanes are subject to the identified unsafe condition. This proposed AD would add airplanes to the applicability. We are proposing this AD

to prevent arcing, smoke, and fire in the flight deck, which could lead to injuries to or incapacitation of the flightcrew.

DATES: We must receive comments on this proposed AD by March 9, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0075; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Frank Carreras, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6442; fax: 425–917–6590; email: *frank.carreras@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0075; Directorate Identifier 2014–NM–202–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On December 20, 2013, we issued AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014), for certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. AD 2013–26–08 requires inspecting the orientation of both sides of the coil cord connector keyways of the number 2 windows on the flight deck; re-clocking the connector keyways, if necessary; and replacing the coil cord assemblies on both number 2 windows on the flight deck. AD 2013–26–08 resulted from reports of arcing and smoke at the left number 2 window in the flight deck. We issued AD 2013–26–08 to prevent arcing, smoke, and fire in the flight deck, which could lead to injuries to or incapacitation of the flightcrew.

Actions Since AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014) Was Issued

In AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014), a commenter to the SNPRM (77 FR 41931, July 17, 2012) requested that we add additional airplanes to the applicability. We determined that further delay of AD 2013–26–08 was not appropriate in light of the identified unsafe condition that existed on the airplanes specified in the applicability of AD 2013–26–08. We stated that we might consider additional rulemaking in the future. We now have determined that further rulemaking is indeed necessary, and this proposed AD follows from that determination.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would retain all requirements of AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014). This proposed AD would add Group 3 airplanes, as identified in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, to the applicability.

Costs of Compliance

We estimate that this proposed AD affects 718 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Number of airplanes	Cost on U.S. operators
Keyway inspection and installation (Group1, Configuration 1 airplanes) [actions retained from AD 2013-26-08, Amendment 39-17717 (79 FR 545, January 6, 2014)].	6 work-hours × $85 per hour = $510.	$1,608	$2,118	712	$1,508,016.
Adjustment of receptacles (Group 1, Configuration 2, Group 2, and Group 3 airplanes) [actions retained from AD 2013-26-08, Amendment 39-17717 (79 FR 545, January 6, 2014)].	4 work-hours × $85 per hour = $340.	$0	$340	410	$139,400.

ESTIMATED COSTS—Continued

Action	Labor cost	Parts cost	Cost per product	Number of airplanes	Cost on U.S. operators
Coil cord inspection (Group 1, Configuration 3, and Group 2 airplanes) [actions retained from AD 2013-26-08, Amendment 39-17717 (79 FR 545, January 6, 2014)].	1 work-hour × $85 per hour = $85 per coil cord.	$0	$85 per coil cord	404	$34,340 per coil cord.

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	3 work-hours × $85 per hour = $255 per coil cord assembly.	$1,735 per coil cord assembly.	$1,990 per coil cord assembly.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014), and adding the following new AD:

The Boeing Company: Docket No. FAA–2015–0075; Directorate Identifier 2014–NM–202–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by March 9, 2015.

(b) Affected ADs

This AD replaces AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014).

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013.

(d) Subject

Air Transport Association (ATA) of America Code 30, Ice and Rain Protection.

(e) Unsafe Condition

This AD was prompted by reports of arcing and smoke at the left number 2 window in the flight deck. We are issuing this AD to prevent arcing, smoke, and fire in the flight deck, which could lead to injuries to or incapacitation of the flightcrew.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Inspection and Replacement for Group 1, Configuration 1, Airplanes

This paragraph restates the requirements of paragraph (g) of AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014), with no changes. For airplanes identified as Group 1, Configuration 1, in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013: Within 48 months after February 10, 2014 (the effective date of AD 2013–26–08), do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Do a general visual inspection of the orientation of the coil cord connector keyways on the captain's and first officer's sides of the flight compartment, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in

paragraph (k) of this AD. If the orientation is not at the specified position, before further flight, turn the receptacle connector to the correct position, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (k) of this AD.

(2) Replace the coil cords with new coil cords on both sides of the flight deck, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (k) of this AD.

(h) Retained Receptacle Replacement for Group 1, Configuration 2, and Group 2, Configuration 1 Airplanes

This paragraph restates the requirements of paragraph (h) of AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014), with no changes. For airplanes identified as Group 1, Configuration 2, and Group 2, Configuration 1, in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013: Within 48 months after February 10, 2014 (the effective date of AD 2013–26–08), install the receptacle connector with changed keyway position on both sides of the flight deck, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (k) of this AD.

(i) Retained Coil Cord Inspection and Corrective Action

This paragraph restates the requirements of paragraph (i) of AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014), with no changes. For airplanes identified as Group 1, Configuration 3, and Group 2, Configuration 2, in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013: Within 48 months after February 10, 2014 (the effective date of AD 2013–26–08), do a general visual inspection for rubbing damage of the coil cord on the captain's and first officer's sides of the flight compartment, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (k) of this AD. If any rubbing damage is found: Before further flight, replace the coil cord with a new coil cord, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (k) of this AD.

(j) New Requirements of This AD: Receptacle Replacement for Group 3 Airplanes

For airplanes identified as Group 3 in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013: Within 48 months after the effective date of this AD, install the receptacle connector with changed keyway position on both sides of the flight deck, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (k) of this AD.

(k) Exceptions to Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, Dated April 24, 2013

(1) This paragraph restates the provisions of paragraph (j)(1) of AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014), with no changes. In the circuit breaker tables of the Work Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, the panel number for circuit breaker C00393 is incorrectly identified as ''P6–12.'' The correct panel number reference for circuit breaker C00393, ''WINDOW HEAT POWER RIGHT SIDE,'' is P6–11.

(2) This paragraph restates the provisions of paragraph (j)(2) of AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014), with no changes. In paragraph 3.B. of the Work Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, the description for Part 3 of the Work Instructions is identified as ''PART 3: RECEPTACLE CONNECTOR POSITION CHANGE,'' which is incorrect. The correct description for Part 3 of the Work Instructions is ''PART 3: COIL CORD INSPECTION AND REPLACEMENT IF DAMAGE IS FOUND.''

(3) This paragraph restates the provisions of paragraph (j)(3) of AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014), with no changes. In Figures 13 and 14, in paragraph 3.B. of the Work Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, the note before the step tables misidentifies certain parts and airplane groups. The note should read:

NOTE: Group 1 and Group 2 airplanes have the connector receptacle identified as D10572. Group 3 airplanes have the connector receptacle identified as D10560. Except for Group 1 airplanes, a wire diagram change is not necessary and not shown in this service bulletin.

(l) Credit for Previous Actions

This paragraph restates the provisions of paragraph (k) of AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014), with no changes. This paragraph provides credit for the replacement required by paragraph (g)(2) of this AD, if the replacement was performed before February 10, 2014 (the effective date of AD 2013–26–08), using the service information specified in paragraph (l)(1), (l)(2), (l)(3), (l)(4), or (l)(5) of this AD, provided that the actions required by paragraph (h) of this AD are done in accordance with Boeing Special Attention Service Bulletin 737–30–1058, Revision 4, dated November 3, 2011; or Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013; for airplanes in Group 1, Configuration 2, and Group 2.

(1) Boeing Service Bulletin 737–30–1058, dated July 27, 2006, which is not incorporated by reference in this AD.

(2) Boeing Service Bulletin 737–30–1058, Revision 1, dated June 18, 2007, which is not incorporated by reference in this AD.

(3) Boeing Service Bulletin 737–30–1058, Revision 2, dated February 13, 2009, which is not incorporated by reference in this AD.

(4) Boeing Special Attention Service Bulletin 737–30–1058, Revision 3, dated July 7, 2010, which is not incorporated by reference in this AD.

(5) Boeing Special Attention Service Bulletin 737–30–1058, Revision 4, dated November 3, 2011.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (n)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) AMOCs approved for AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014), are approved as AMOCs for the corresponding provisions of this AD.

(4) For airplanes identified as Group 3 in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, AMOCs approved for the actions required by paragraph (h) of AD 2013–26–08, Amendment 39–17717 (79 FR 545, January 6, 2014), are approved as AMOCs for the corresponding provisions of paragraph (j) of this AD.

(n) Related Information

(1) For more information about this AD, contact Frank Carreras, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6442; fax: 425–917–6590; email: *frank.carreras@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 14, 2015.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00962 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0077; Directorate Identifier 2013–NM–254–AD]

RIN 2120–AA64

Airworthiness Directives; ATR–GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain ATR–GIE Avions de Transport Régional Model ATR42–500 and Model ATR72–212A airplanes. This proposed AD was prompted by a report indicating interference between a Type III Emergency Exit door and the surrounding passenger cabin furnishing during a production check. This proposed AD would require measuring the gap between the Type III Emergency Exit doors and certain overhead stowage compartment fittings; removing certain fittings from the overhead stowage compartments and measuring the gap between the Type III Emergency Exit doors and the overhead stowage compartment hooks, if necessary; and re-installing or repairing, as applicable, the Type III Emergency Exit doors. We are proposing this AD to detect and correct interference between a Type III Emergency Exit door and the overhead stowage compartment fitting installed on the rail; which could result in obstructed opening of a Type III Emergency Exit door during an emergency evacuation.

DATES: We must receive comments on this proposed AD by March 9, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr.fr;* Internet *http://www.aerochain.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0077; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0077; Directorate Identifier 2013–NM–254–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0280, dated November 26, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for ATR–GIE Avions de Transport Régional Model ATR42–500 and Model ATR72–212A airplanes. The MCAI states:

> Interference between a Type III Emergency Exit door opening and the surrounding passenger cabin furnishing was detected during a production check.
>
> Subsequent investigation identified an insufficient gap between the Emergency Exit door internal skin structure and the overhead stowage compartment fitting, installed on the rail, as a cause of the interference.
>
> This condition, if not detected and corrected, could prevent an unobstructed opening of both Type III Emergency Exit doors in case of emergency evacuation.
>
> For the reasons described above, this [EASA] AD requires a one-time check [measurement] of the gap between the Type III Emergency Exit door internal skin and a relevant [overhead stowage compartment] fitting and, depending on findings, the accomplishment of applicable corrective action(s). This [EASA] AD is considered to be a temporary measure and further actions may follow.

Required actions include an additional measurement of the gap between the internal skin and overhead stowage compartment hooks of both Type III Emergency Exits, if necessary. Corrective actions include re-installing the Type III Emergency Exit doors or contacting the manufacturer for repair instructions and doing the repair, as applicable. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0077.

Related Service Information

ATR–GIE Avions de Transport Régional has issued the following service information, which, among other things, describes procedures for removing certain fittings from the overhead stowage compartments, measuring the gap between the Type III Emergency Exit doors and the overhead stowage compartment hooks, re-installing the Type III Emergency Exit doors, and contacting the manufacturer for repair information.

- ATR Service Bulletin ATR42–25–0180, dated August 19, 2013.
- ATR Service Bulletin ATR72–25–1141, dated August 19, 2013.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Costs of Compliance

We estimate that this proposed AD affects 1 airplane of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 1 work-hour and require parts costing $0, for a cost of $85 per product. We have no way of determining the number of aircraft that might need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

ATR—GIE Avions de Transport Régional: Docket No. FAA–2015–0077; Directorate Identifier 2013–NM–254–AD.

(a) Comments Due Date

We must receive comments by March 9, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) ATR—GIE Avions de Transport Régional Model ATR42–500 airplanes, certificated in any category, all manufacturer serial numbers (MSNs) on which ATR Modification 6518 has been embodied in production, except MSN 1002 and 1005, and except those airplanes on which ATR Modification 7152 has been embodied in production.

(2) ATR—GIE Avions de Transport Régional Model ATR72–212A airplanes, certificated in any category, on which ATR Modification 6517 has been embodied in production, except MSNs 1089, 1094, 1095, 1097, 1098, 1099, 1100, 1101, and 1102; and except those airplanes on which ATR Modification 7152 has been embodied in production.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Reason

This AD was prompted by a report indicating interference between a Type III Emergency Exit door and the surrounding passenger cabin furnishing during a production check. We are issuing this AD to detect and correct interference between a Type III Emergency Exit door and the overhead stowage compartment fitting installed on the rail, which could result in obstructed opening of a Type III Emergency Exit door during an emergency evacuation.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Measurement of Gap Between Type III Emergency Exit Doors and Certain Overhead Stowage Compartment Fittings

Within 2 months after the effective date of this AD: Measure the gap between each Type III Emergency Exit door, left hand (LH) and right hand (RH), and the overhead stowage compartment fitting installed on the rail, by unlocking and slightly rotating the LH and RH Type III Emergency Exit doors with the doors remaining on the lower fittings. Use a shim gauge 6 millimeters (mm) (0.236 inch) thick, to measure the gap between the internal skin of the doors and the relevant fittings, part number (P/N) S2522924620000 (LH fitting) and P/N S2522924620100 (RH fitting).

Note 1 to paragraph (g) of this AD: Illustrations may be found in the applicable ATR Illustrated Parts Catalog (IPC) 25–23–02, figure 87, item 90/100.

Note 2 to paragraph (g) of this AD: It might be necessary to pull on the door blanket to correctly see the door internal skin.

(h) Re-Installation of Type III Emergency Exit Doors

During the measurement required by paragraph (g) of this AD, if it is determined that there is a gap equal to or greater than 6 mm (0.236 inch), before further flight, re-install the LH and RH Type III Emergency Exit Doors, in accordance with paragraph 3.C.(1)(d) of the Accomplishment Instructions of ATR Service Bulletin ATR42–25–0180, dated August 19, 2013; or ATR72–25–1141, dated August 19, 2013; as applicable.

(i) Removal of Fitting and Measurement of Gap Between Door Internal Skin and Overhead Stowage Compartment Hooks

During the measurement required by paragraph (g) of this AD, if it is determined that there is a gap less than 6 mm (0.236 inch): Before further flight, remove the fitting P/N S2522924620000 (LH fitting) or P/N S2522924620100 (RH fitting), and measure the gap between the internal skin of the LH and RH Type III Emergency Exit Doors and the overhead stowage compartment hooks, in accordance with the Accomplishment Instructions of ATR Service Bulletin ATR42–25–0180, dated August 19, 2013; or ATR72–

25–1141, dated August 19, 2013; as applicable.

(1) If, during the measurement required by paragraph (i) of this AD, it is determined that there is a gap equal to or greater than 6 mm (0.236 inch): Before further flight, re-install the LH and RH Type III Emergency Exit Doors, in accordance with the Accomplishment Instructions of ATR Service Bulletin ATR42–25–0180, dated August 19, 2013; or ATR72–25–1141, dated August 19, 2013; as applicable.

(2) If, during the measurement required by paragraph (i) of this AD, it is determined that there is a gap less than 6 mm (0.236 inch): Before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or ATR—GIE Avions de Transport Régional's EASA Design Organization Approval (DOA).

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or ATR—GIE Avions de Transport Régional's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0280, dated November 26, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0077.

(2) For service information identified in this AD, contact ATR—GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr.fr;* Internet *http://www.aerochain.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 15, 2015.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00956 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1047; Directorate Identifier 2014–NM–157–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A318, A319, A320, and A321 series airplanes. This proposed AD was prompted by a report that, during the assembly process, several gaps between the two parts of the girt bar fittings for the aft passenger doors were found to exceed tolerances. This proposed AD would require an inspection of the gap between the two parts of the girt bar fittings on left-hand (LH) and right-hand (RH) aft passenger doors, and corrective actions if necessary. We are proposing this AD to detect and correct incorrect gaps between the girt bar fittings. Detachment of a girt bar could lead to the separation of the slide or slide-raft from the fuselage, making the emergency exit inoperative, which could impede an emergency evacuation.

DATES: We must receive comments on this proposed AD by March 9, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1047; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–1047; Directorate Identifier 2014–NM–157–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each

substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0178, dated July 25, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A318, A319, A320, and A321 series airplanes. The MCAI states:

> During final assembly line process, several AFT passenger door lower fitting gaps were found excessive and out of tolerance between two parts of the girt bar fittings. The gap contributes to the correct locking of the girt bar during the door lifting movement, ensuring the retention of the girt bar when the loads applied on the girt by the slide are directed from the outside to the inside. If the gap is too large, there is a risk that the girt bar, when subjected to these loads, will detach from one of the girt bar fittings.
>
> This condition, if not detected and corrected, could lead to the separation of the slide/slide-raft from the fuselage, making the emergency exit inoperative and, consequently, significantly reducing the safety margin for the occupants during an evacuation.
>
> For the reason described above, this [EASA] AD requires a detailed inspection (DET) to check the gap between the two parts of the girt bar fittings, on AFT passenger doors, left-hand (LH) and right-hand (RH) sides, and, depending on findings, accomplishment of the applicable corrective actions [such as modifiying or replacing the automatic latch].

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1047.

Related Service Information

Airbus has issued Service Bulletin A320–53–1289, dated May 28, 2014. The service information describes procedures for a detailed inspection of the gap in the girt bar fittings of the aft passenger doors, LH and RH sides, and corrective actions. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Explanation of ''RC'' Procedures and Tests in Service Information

The FAA worked in conjunction with industry, under the Airworthiness Directives Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement was a new process for annotating which procedures and tests in the service information are required for compliance with an AD. Differentiating these procedures and tests from other tasks in the service information is expected to improve an owner's/operator's understanding of crucial AD requirements and help provide consistent judgment in AD compliance. The actions specified in the service information identified previously include procedures and tests that are identified as RC (required for compliance) because these procedures have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

As specified in a **NOTE** under the Accomplishment Instructions of the specified service information, procedures and tests identified as RC must be done to comply with the proposed AD. However, procedures and tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an alternative method of compliance (AMOC), provided the procedures and tests identified as RC can be done and the airplane can be put back in a serviceable condition. Any substitutions or changes to procedures or tests identified as RC will require approval of an AMOC.

Costs of Compliance

We estimate that this proposed AD affects 838 airplanes of U.S. registry.

We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $213,690, or $255 per product.

In addition, we estimate that any necessary follow-on actions would take about 4 work-hours and require parts costing $435, for a cost of $775 per product. We have no way of determining the number of aircraft that might need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2014–1047; Directorate Identifier 2014–NM–157–AD.

(a) Comments Due Date

We must receive comments by March 9, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus airplanes identified in paragraphs (c)(1) through (c)(4) of this AD, certificated in any category, except those on which Airbus Modification 154966 has been embodied during production.

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by a report that, during the assembly process, several gaps between the two parts of the girt bar fittings for the aft passenger doors were found to exceed tolerances. We are issuing this AD to detect and correct incorrect gaps between the girt bar fittings. Detachment of a girt bar could lead to the separation of the slide or slide-raft from the fuselage, making the emergency exit inoperative, which could impede an emergency evacuation.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection and Corrective Action

Except as provided by paragraph (h) of this AD, within 36 months after the effective date of this AD, do a detailed inspection of the gap in the girt bar fittings of the aft passenger doors, LH and RH sides, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1289, dated May 28, 2014. Do all applicable corrective actions before further flight.

(h) Exception

For any airplane that has been modified to a configuration where one or both LH and RH aft passenger doors are permanently inoperative or deactivated: If any aft passenger door is reactivated, after reactivation but before further flight, do the detailed inspection of the reactivated aft passenger door(s) and all applicable corrective actions, as required by paragraph (g) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Required for Compliance (RC): If the service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures and tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in a serviceable condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(3) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency (EASA) Airworthiness Directive 2014–0178, dated July 25, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1047.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office–EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 14, 2015.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00943 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1422

[Docket No. CPSC–2009–0087]

Recreational Off-Highway Vehicles (ROVs); Notice of Extension of Comment Period

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Extension of comment period.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) published a notice of proposed rulemaking (NPR) in the **Federal Register** on November 19, 2014, concerning recreational off-highway vehicles (ROVs). The NPR invited the public to submit written comments by February 2, 2015. In response to two requests for an extension, the Commission is extending the comment period.

DATES: Submit comments by April 8, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2009–0087, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through: *http://www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions

Submit written submissions in the following way:

Mail/Hand delivery/Courier, preferably in five copies, to: Office of the

Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov* and insert the Docket No. CPSC–2009–0087 into the ''Search'' box and follow the prompts.

SUPPLEMENTARY INFORMATION: On November 19, 2014, the Commission published an NPR in the **Federal Register** proposing standards that would apply to ROVs. (79 FR 68964). The Commission issued the proposed rule under the authority of the Consumer Product Safety Act (CPSA). The Recreational Off-Highway Vehicle Association (ROHVA) requested a minimum 60-day extension of the comment period to receive information ROHVA had requested from CPSC and also to review and analyze ROV incident data, proposed findings, and proposed requirements in the NPR. The Outdoor Power Equipment Institute (OPEI) also requested an extension of the ROV NPR comment period to receive and analyze information that OPEI requested from CPSC and also to review ROV incident data and conduct testing on ROVs. OPEI asked that the comment period be extended to August 30, 2015.

The Commission has considered the requests and is extending the comment period until April 8, 2015.[1] This date is approximately 75 days (the length of the original comment period) from the date that the CPSC made the information requested by ROHVA and OPEI available to the public at *http://www.cpsc.gov/Newsroom/FOIA/Investigations-and-Incident-Reports/.* The Commission believes that this extension allows adequate time for interested persons to submit comments on any aspect of the proposed rule, including the newly-available information, without significantly delaying the rulemaking.

Alberta E. Mills,

Acting Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2015–01110 Filed 1–22–15; 8:45 am]

BILLING CODE 6355–01–P

[1] The Commission voted 5–0 to publish this notice in the **Federal Register**. Commissioner Robert S. Adler issued a statement regarding the matter (available at *http://www.cpsc.gov/en/About-CPSC/Commissioners/Robert-Adler/Commissioner-Adler-Statements/Statement-of-Commissioner-Robert-Adler-on-the-Request-for-an-Extension-of-the-Comment-Period-for-the-Notice-of-Proposed-Rulemaking-for-Recreational-Off-Highway-Vehicles/?utm_source=rss&utm_medium=rss&utm_campaign=Adler+Statements.*)

POSTAL SERVICE

39 CFR Part 20

International Mailing Services: Proposed Price Changes

AGENCY: Postal Service™.

ACTION: Notice of proposed price adjustments, opportunity to comment.

SUMMARY: On January 15, 2015, the Postal Service filed a notice of mailing services price adjustments with the Postal Regulatory Commission (PRC) for products and services covered by *Mailing Standards of the United States Postal* Service, International Mail Manual (IMM®), to be effective on April 26, 2015. Following the completion of this proceeding, the Postal Service will revise Notice 123, *Price List,* to reflect the new prices.

DATES: We must receive your comments on or before February 23, 2015.

ADDRESSES: Comments regarding this proposal are invited. Mail or deliver comments to the manager, Product Classification, U.S. Postal Service®, 475 L'Enfant Plaza SW., RM 4446, Washington, DC 20260–5015. You may inspect and photocopy all written comments at USPS® Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor N., Washington, DC by appointment only between the hours of 9 a.m. and 4 p.m., Monday through Friday by calling 1–202–268–2906 in advance. Email comments, containing the name and address of the commenter, may be sent to: *ProductClassification@usps.gov,* with a subject line of ''April 2015 International Mailing Services Price Change.'' Faxed comments are not accepted.

FOR FURTHER INFORMATION CONTACT: Paula Rabkin at 202–268–2537.

SUPPLEMENTARY INFORMATION: The Postal Service hereby gives notice that, pursuant to 39 U.S.C. 3622, on January 15, 2015, it filed with the Postal Regulatory Commission a *Notice of Market-Dominant Price Adjustment.* Proposed prices and other documents relevant to this filing are available under Docket No. R2015–4 on the PRC's Web site at *www.prc.gov.*

This proposed rule includes price changes for First-Class Mail International® and certain international extra services. All of the proposed price change percentages are based on CPI prices approved by the PRC in Docket No. 2103–10, plus the Exigent Surcharge approved by the PRC in Docket No. R2013–11.

First-Class Mail International

We propose to increase prices for single-piece First-Class Mail International letters, postcards, and flats by approximately 4.2 percent. (Under this proposal, the 2-ounce letter-size price to Canada will continue at the same price as the 1-ounce letter-size price to Canada.)

International Extra Services and Fees

The Postal Service proposes to increase prices for certain international market dominant extra services including:

- Certificate of Mailing (0.35%)
- Registered Mail™ (2.2%)
- Return Receipt (2.7%).

Following the completion of Docket No. R2015–4, the Postal Service will adjust the prices for products and services covered by the International Mail Manual. These prices will be on *Postal Explorer*® at *pe.usps.com.*

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2015–01097 Filed 1–22–15; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2014–0754; FRL–9921–93–Region 6]

Approval and Promulgation of Implementation Plans; Texas and Oklahoma; Regional Haze State Implementation Plans; Interstate Transport State Implementation Plan To Address Pollution Affecting Visibility and Regional Haze; Federal Implementation Plan for Regional Haze and Interstate Transport of Pollution Affecting Visibility; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: In the December 16, 2014 **Federal Register** the Environmental

Protection Agency (EPA) requested comments by February 17, 2015 on a proposed rule pertaining to the Regional Haze and interstate visibility transport requirements for Texas and the Regional Haze requirements for Oklahoma. We also proposed a Federal Implementation Plan to correct deficiencies identified in the plans. EPA is extending the public comment period for this proposal until April 20, 2015.

DATES: Written comments must be received on or before April 20, 2015.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2014–0754, by one of the following methods:

- Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Email: *R6_TXOKRegionalHaze@epa.gov.*
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.
- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.

Instructions: Direct your comments to Docket No. EPA–R06–OAR–2014–0754. Our policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to us without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If we cannot read your comment due to technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Joe Kordzi, 214–665–7186, *kordzi.joe@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Mr. Kordzi or Mr. Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA. On December 16, 2014, we published in the **Federal Register** a proposed rule pertaining to regional haze and interstate transport of pollution affecting visibility (79 FR 74818). Specifically, we proposed to (1) partially approve and partially disapprove revisions to the Texas SIP pertaining to regional haze and disapprove revisions regarding visibility protection, (2) disapprove a revision to the Oklahoma SIP pertaining to regional haze, and (3) establish a FIP to remedy these deficiencies. The proposed FIP would implement SO_2 emission limits on fifteen Texas air pollution sources. In the proposal we requested comments by February 17, 2015.

We received several requests for an extension of the comment period and, in response, have decided to allow an additional 60 days. We are extending the comment period to April 20, 2015.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxides, Visibility, Interstate transport of pollution, Regional haze, Best available control technology.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 14, 2015.

Wren Stenger,

Multimedia Planning and Permitting Division Director, Region 6.

[FR Doc. 2015–01164 Filed 1–22–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 27

[GN Docket No. 12–268, WT Docket Nos. 14–170, 05–211, RM–11395; DA 15–52]

Updating Competitive Bidding Rules; Further Extension of Comment and Reply Comment Periods

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment and reply comment deadlines.

SUMMARY: In this document, the Wireless Telecommunications Bureau (Bureau) further extends the deadline for filing comments and reply comments on its Competitive Bidding Notice of Proposed Rulemaking (*Competitive Bidding NPRM*), which sought comment on the revision of certain part 1 competitive bidding rules and provided notice of the Commission's intention to resolve longstanding petitions for reconsideration.

DATES: Comments are due on or before February 6, 2015, and reply comments are due on or before February 26, 2015.

ADDRESSES: You may submit comments to the *Competitive Bidding NPRM,* identified by GN Docket No. 12–268 and WT Docket Nos. 14–170, 05–211, by any of the following methods:

- *Electronic Filers:* Federal Communication Commission's Electronic Comments Filing System (ECFS): *http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Paper Filers:* All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. Eastern Time (ET). All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

• *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, or audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Wireless Telecommunications Bureau, Auctions and Spectrum Access Division: Leslie Barnes at (202) 418–0660.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's *Order* in GN Docket No. 12–268, DA 15–52, adopted and released on January 13, 2015. The complete text of this document is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. ET Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), telephone 202–488–5300, facsimile 202–488–5563, or by contacting BCPI on its Web site: *http://www.BCPIWEB.com.* The complete text is also available on the Commission's Web site at *http://wireless.fcc.gov,* or by using the search function on the ECFS Web page at *http://www.fcc.gov/cgb/ecfs/.*

Summary

1. The Bureau released an *Order* on January 13, 2015, which further extends the comment and reply comment filing deadlines established in the *Competitive Bidding NPRM,* 79 FR 68172, November 14, 2014. The Federal Communications Commission (Commission) adopted the *Competitive Bidding NPRM* on October 1, 2014, proposing to reform certain of its general part 1 rules governing competitive bidding for spectrum licenses to reflect changes in the marketplace. The Commission expressed its intention to act on the issues raised in the *Competitive Bidding NPRM* in time to allow all parties to account for any changes while planning for the broadcast incentive auction. Extending the deadlines for comments and reply comments in response to the *Competitive Bidding NPRM* will increase the likelihood that interested parties will be able to take into account more complete information about the results of the bidding in Auction 97 and thereby promote a more comprehensive record in the proceeding, without jeopardizing the Bureau's ability to act on the *Competitive Bidding NPRM* sufficiently in advance of the upcoming broadcast incentive auction. Given the Commission's anticipated schedule for the broadcast incentive auction, further extensions for comments in this proceeding may not be feasible.

2. Pursuant to sections 4(i), 4(j), and 5(c) of the Communications Act of 1934, as amended, and pursuant to the authority delegated in 47 CFR 0.131 and 0.331, the Bureau extends the deadlines for filing comments and reply comments until February 6, 2015, and February 26, 2015, respectively.

Federal Communications Commission.

Gary D. Michaels,

Deputy Chief, Auctions and Spectrum Access Division, WTB.

[FR Doc. 2015–01193 Filed 1–22–15; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571, 580, 581, 582, 583, 585, 587, and 588

[Docket No. NHTSA–2014–0110]

Federal Motor Vehicle Safety Standards; Small Business Impacts of Motor Vehicle Safety

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of regulatory review; Request for comments.

SUMMARY: NHTSA seeks comments on the economic impact of its regulations on small entities. As required by Section 610 of the Regulatory Flexibility Act, we are attempting to identify rules that may have a significant economic impact on a substantial number of small entities. We also request comments on ways to make these regulations easier to read and understand. The focus of this notice is rules that specifically relate to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, motorcycles, and motor vehicle equipment.

DATES: You should submit comments early enough to ensure that Docket Management receives them not later than March 24, 2015.

ADDRESSES: You may submit comments [identified by Docket Number NHTSA–2014–0110] by any of the following methods:

• *Internet:* To submit comments electronically, go to the U.S. Government regulations Web site at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Mail:* Send comments to Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

• *Hand Delivery:* If you plan to submit written comments by hand or courier, please do so at 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except federal holidays.

• *Fax:* Written comments may be faxed to 202–493–2251.

• You may call Docket Management at 1–800–647–5527.

Instructions: For detailed instructions on submitting comments and additional information see the Comments heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Juanita Kavalauskas, Office of Regulatory Analysis and Evaluation, National Center for Statistics and Analysis, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone 202–366–2584, fax 202–366–3189).

SUPPLEMENTARY INFORMATION:

I. Section 610 of the Regulatory Flexibility Act

A. Background and Purpose

Section 610 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), requires agencies to conduct periodic reviews of final rules that have a significant economic impact on a substantial number of small business entities. The purpose of the reviews is to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the objectives of applicable statutes, to minimize any significant economic impact of the rules on a substantial number of such small entities.

B. Review Schedule

On November 24, 2008, NHTSA published in the **Federal Register** (73 FR 71401) a 10-year review plan for its

existing regulations. The National Highway Traffic Safety Administration (NHTSA, ''we'') has divided its rules into 10 groups by subject area. Each group will be reviewed once every 10 years, undergoing a two-stage process—an Analysis Year and a Review Year. For purposes of these reviews, a year will coincide with the fall-to-fall publication schedule of the Semiannual Regulatory Agenda, see *http://www.regulations.gov.* Year 1 (2008) begins in the fall of 2008 and ends in the fall of 2009; Year 2 (2009) begins in the fall of 2009 and ends in the fall of 2010; and so on.

During the Analysis Year, we will request public comment on and analyze each of the rules in a given year's group to determine whether any rule has a significant impact on a substantial number of small entities and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. In each fall's Regulatory Agenda, we will publish the results of the analyses we completed during the previous year. For rules that have subparts, or other discrete sections of rules that do have a significant impact on a substantial number of small entities, we will announce that we will be conducting a formal section 610 review during the following 12 months.

The section 610 review will determine whether a specific rule should be revised or revoked to lessen its impact on small entities. We will consider: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other federal rules or with state or local government rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. At the end of the Review Year, we will publish the results of our review. The following table shows the 10-year analysis and review schedule:

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION SECTION 610 REVIEWS

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR 571.223 through 571.500, and parts 575 and 579	2008	2009
2	23 CFR parts 1200 and 1300	2009	2010
3	49 CFR parts 501 through 526 and 571.213	2010	2011
4	49 CFR 571.131, 571.217, 571.220, 571.221, and 571.222	2011	2012
5	49 CFR 571.101 through 571.110, and 571.135, 571.138 and 571.139	2012	2013
6	49 CFR parts 529 through 578, except parts 571 and 575	2013	2014
7	49 CFR 571.111 through 571.129 and parts 580 through 588	2014	2015
8	49 CFR 571.201 through 571.212	2015	2016
9	49 CFR 571.214 through 571.219, except 571.217	2016	2017
10	49 CFR parts 591 through 595 and new parts and subparts	2017	2018

C. Regulations Under Analysis

During Year 7, we will continue to conduct a preliminary assessment of the following sections of 49 CFR 571.111 through 571.129, and parts 580 through 588:

Section	Title
571.111	Rearview Mirrors.
571.112	[Reserved].
571.113	Hood Latch System.
571.114	Theft Protection.
571.115	[Reserved].
571.116	Motor Vehicle Brake Fluids.
571.117	Retreaded Pneumatic Tires.
571.118	Power-Operated Window, Partition, and Roof Panel Systems.
571.119	New Pneumatic Tires for Motor Vehicles With a GVWR of More Than 4,536 Kilograms (10,000 Pounds) and Motorcycles.
571.120	Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles With a GVWR of More Than 4,536 Kilograms (10,000 Pounds).
571.121	Air Brake Systems.
571.122	Motorcycle Brake Systems.
571.122a	Motorcycle Brake Systems.
571.123	Motorcycle Controls and Displays.
571.124	Accelerator Control Systems.
571.125	Warning Devices.
571.126	Electronic Stability Control Systems.
571.127	[Reserved].
571.128	[Reserved].
571.129	New Non-Pneumatic Tires for Passenger Cars.
580	Odometer Disclosure Requirements.
581	Bumper Standard.
582	Insurance Cost Information Regulation.
583	Automobile Parts Content Labeling.
585	Phase-In Reporting Requirements.
586	[Reserved].
587	Deformable Barriers.
588	Child Restraint Systems Recordkeeping Requirements.

We are seeking comments on whether any requirements in 49 CFR 571.111 through 571.129, and parts 580 through 588 have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. Business entities are generally defined as small businesses by Standard Industrial Classification (SIC) code, for the purposes of receiving Small Business Administration (SBA) assistance. Size standards established by SBA in 13 CFR 121.201 are expressed either in number of employees or annual receipts in millions of dollars, unless otherwise specified. The number of employees or annual receipts indicates the maximum allowed for a concern and its affiliates to be considered small. If your business or organization is a small entity and if any of the requirements in 49 CFR 571.111 through 571.129, and parts 580 through 588 have a significant economic impact on your business or organization, please submit a comment to explain how and to what degree these rules affect you, the extent of the economic impact on your business or organization, and why you believe the economic impact is significant.

If the agency determines that there is a significant economic impact on a substantial number of small entities, it will ask for comment in a subsequent notice during the Review Year on how these impacts could be reduced without reducing safety.

II. Plain Language

A. Background and Purpose

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this document.

B. Review Schedule

In conjunction with our section 610 reviews, we will be performing plain language reviews over a ten-year period on a schedule consistent with the section 610 review schedule. We will review 49 CFR 571.111 through 571.129, and parts 580 through 588 to determine if these regulations can be reorganized and/or rewritten to make them easier to read, understand, and use. We encourage interested persons to submit draft regulatory language that clearly and simply communicates regulatory requirements, and other recommendations, such as for putting information in tables that may make the regulations easier to use.

III. Comments

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21.) We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit one copy of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg_reproducible.* DOT's guidelines may be accessed at *http://dmses.dot.gov/submit/DataQualityGuidelines.pdf.*

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://www.regulations.gov.*

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Federal Docket Management System (FDMS) at *http://www.regulations.gov.*

(2) FDMS provides two basic methods of searching to retrieve dockets and docket materials that are available in the system: (a) ''Quick Search'' to search using a full-text search engine, or (b) ''Advanced Search,'' which displays various indexed fields such as the docket name, docket identification

number, phase of the action, initiating office, date of issuance, document title, document identification number, type of document, **Federal Register** reference, CFR citation, etc. Each data field in the advanced search may be searched independently or in combination with other fields, as desired. Each search yields a simultaneous display of all available information found in FDMS that is relevant to the requested subject or topic.

(3) You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the ''pdf'' versions of the documents are word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Authority: 49 U.S.C. 30111, 30168; delegation of authority at 49 CFR 1.95 and 501.8.

Issued in Washington, DC, on January 20th, 2015.

Terry Shelton,

Associate Administrator, National Center for Statistics and Analysis.

[FR Doc. 2015–01165 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140818679–5042–01]

RIN 0648–BE47

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Amendment 40 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico Fishery Management Council (Council). If implemented, this rule would establish a Federal charter vessel/headboat (for-hire) component and private angling component within the recreational sector, allocate the red snapper recreational quota and annual catch target (ACT) between the components based on historical and recent landings, and establish separate red snapper season closure provisions for the Federal for-hire and private angling components. These measures would sunset after 3 years unless the Council takes additional action. The purpose of Amendment 40 is to define distinct private angling and Federal for-hire components of the recreational sector who fish for red snapper, and allocate the recreational quota between these components, to increase the stability for the for-hire component, provide a basis for increased flexibility in future management of the recreational sector, and minimize the chance for recreational quota overruns, which could negatively impact the rebuilding of the red snapper stock.

DATES: Written comments must be received on or before March 9, 2015.

ADDRESSES: You may submit comments on the amendment identified by ''NOAA–NMFS–2014–0107'' by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0107,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 40, which includes an environmental impact statement, a fishery impact statement, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Peter Hood, Southeast Regional Office, NMFS, telephone: 727–824–5305; email: *Peter.Hood@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the Gulf reef fish fishery under the FMP. The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield (OY) from federally managed fish stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. Amendment 40 includes actions to define distinct private angling and Federal for-hire components of the reef fish recreational sector fishing for red snapper and allocate red snapper resources between these two recreational components. Establishing these separate components is intended to increase the stability for the for-hire component, provide a basis for increased flexibility in future management of the recreational sector, and reduce the likelihood for recreational quota overruns. As a result, the actions are intended to prevent overfishing while achieving the OY, particularly with respect to recreational fishing opportunities, while rebuilding the red snapper stock.

Recreational Red Snapper Fishing

The Gulf red snapper stock is overfished and currently under a rebuilding plan until 2032. Consistent with the rebuilding plan, both commercial and recreational quotas have been allowed to increase as the stock has recovered. The recreational sector, which has experienced quota overages and more recently, shorter seasons, is managed under a quota, bag and size limits, and closed seasons. The recreational season length is determined using projections that rely on previous years' landings information. Even though the recreational quota has increased in recent years, the season length has decreased, in part because the average size of the fish harvested has increased and red snapper are more

readily available as the red snapper population has grown (*i.e.,* it takes fewer fish that are more easily caught to fill the quota). Additionally, inconsistent state regulations require NMFS to reduce the length of the Federal recreational fishing season to account for increased state water harvest and have made harvest projections more difficult.

To minimize the chances of the recreational sector exceeding its quota and to mitigate for any quota overages, the Council submitted and NMFS proposed regulations to implement a framework action to the FMP to establish a recreational ACT for red snapper and an accountability measure (AM) that requires an overage adjustment when the recreational quota is exceeded and red snapper are overfished (79 FR 69418, November 21, 2014). The recreational ACT, which is used to set the recreational season length, is calculated by reducing the recreational quota by 20 percent. Should landings exceed the recreational quota, the framework action includes an overage adjustment that would reduce the recreational quota and the recreational ACT in the year following the overage by the amount of the quota overage to mitigate the effects of the overharvest.

The recreational sector in the Gulf includes a private angling component and a for-hire component. The for-hire component includes charter vessels and headboats. Those for-hire vessels with a Federal charter vessel/headboat permit for Gulf reef fish are allowed to fish for red snapper in Federal waters, and those without Federal permits are restricted to fishing for red snapper in state waters. Current recreational management measures are typically applied to the recreational sector as a whole, without making a distinction between the private and for-hire components. Because recreational red snapper fishing seasons in Federal waters have been getting shorter, red snapper fishing opportunities for both the for-hire and private angling components have been reduced.

There has been a moratorium on the issuance of new Federal charter vessel/headboat permits for Gulf reef fish since 2003. This means that no additional Federal permits are available. This also means that access to these vessels is limited to the recreational anglers that pay to fish from these permitted vessels. There is no limit to the number of anglers fishing from private recreational vessels that target reef fish species. Private recreational vessels can harvest red snapper in state waters if the state season is open when the Federal season is closed. There is also no limit to the number of state-issued permits for for-hire vessels operating in state waters. These state-permitted for-hire vessels may harvest federally managed species in state waters only; they may not take paying passengers on trips to harvest federally managed species from Federal waters. Over time, the number of private recreational anglers (state licensed) has increased, while the number of vessels with Federal charter vessels/headboat permits for Gulf reef fish has decreased. As a result, private vessel landings over time have represented a greater proportion of the recreational harvest as a whole. For example, in 2003, NMFS estimates that the Federal for-hire component caught 47.3 percent of the recreational harvest while the private angling component caught 52.7 percent. By 2013, the Federal for-hire component portion had declined to 16.7 percent of the recreational harvest while the private angling component had increased to 83.3 percent. By establishing separate sectors, NMFS intends to stabilize the Federal for-hire component's participation in the sector.

Establishing separate components is also intended to provide a basis for flexible management that can be tailored to the needs of each component, thereby reducing the likelihood for recreational quota overruns which could negatively impact the rebuilding of the red snapper stock. The landings data for each component have different degrees of uncertainty because of differences in how recreational data are collected. Private angler data is derived from surveys whereas for-hire data is collected through surveys and logbooks. In addition, the number of for-hire vessels is known and is much smaller than vessels operated by private anglers. When private recreational landings estimates that have a higher degree of uncertainty are combined with for-hire landings data, it is more difficult to project when the season should close and less effective management measures may be implemented in the recreational sector. Separating management of the components is expected to improve the projections of when the recreational quota is reached and create a platform for future management of the recreational sector that can focus on maximizing opportunities for each component.

Management Measures Contained in This Proposed Rule

If implemented, this proposed rule would: Establish a Federal for-hire and a private angling component within the Gulf recreational sector fishing for red snapper; establish a Federal for-hire quota and a private angling quota based on the component allocation of the red snapper recreational quota that was selected in Amendment 40; and establish separate red snapper ACTs and seasonal closure provisions for the two components. Under a sunset provision, these management measures would only be in effect for 3 years.

Establishing Private Angling and Federal For-Hire Components

This proposed rule would establish a Federal for-hire and a private angling component within the Gulf recreational sector fishing for red snapper. The Federal for-hire component would include operators of vessels with Federal charter vessel/headboat permits for Gulf reef fish and the private angling component would include anglers fishing from private vessels and state-permitted for-hire vessels (for purpose of calculating landings for the recreational sector as a whole). The Council's rationale for establishing these components is to increase the stability for the Federal for-hire component, provide a basis for increased flexibility in future management of the recreational sector, and minimize the chance for recreational quota overruns. The biological effects analyses in Amendment 40 also explain that Amendment 40 is likely to have positive indirect effects on discard mortality as compared to the status quo. Thus, NMFS has made a preliminary determination that Amendment 40 and this proposed rule are consistent with National Standard 5, which requires that conservation and management measures, where practicable, consider efficiency in the utilization of fishery resources but prohibits any such measure from having economic allocation as its sole purpose.

NMFS has also made a preliminary determination that creating the two components is consistent with the requirement in National Standard 4 that conservation and management measures not discriminate between residents of different States. Because red snapper availability and abundance in state waters can vary regionally, fishing opportunities for individual fishermen in the private-angling component may vary if the Gulf States set inconsistent state seasons. However, the actions in Amendment 40 do not differentiate between residents of different states. For the private-angling component, there will be a single Federal season in the EEZ off all Gulf states that will be determined using past landings data and will take into account any harvest allowed in state waters.

Section 407(d) of the Magnuson-Stevens Act requires separate quotas for commercial and recreational fishing (which for the purposes of the subsection includes charter fishing), and a prohibition on the retention of fish when each quota is reached. There is nothing in this section, or elsewhere in the Magnuson-Stevens Act, that prohibits the Council from further sub-dividing the recreational quota among different components of the recreational sector to further improve the management of the fishery, and this approach is one that has been used repeatedly by fishery management councils nationwide as consistent with the authority provided in the Act. *See e.g.,* 16 U.S.C. 1853(b)(3)(A) (allowing the councils to establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—''(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors)''). The one constraint on managing the two components of the recreational sector independently in section 407(d) is the mandate to prohibit the retention of red snapper when the recreational red snapper quota is reached. Consistent with this requirement, the proposed rule would not change the total recreational quota or the requirement that the recreational sector be closed when that total quota is reached. Thus, if NMFS determines that the Gulf-wide recreational quota has been met, all recreational fishing will be prohibited regardless of whether one component has remaining allocation. As explained below, the use of an ACT to set the component season length will reduce the likelihood of this occurring.

Quotas

This rule would establish component quotas based on the allocation of the recreational quota selected in Amendment 40 with 42.3 percent of the quota going to the Federal for-hire component and 57.7 percent going to the private angling component. Given a 2015 recreational quota of 5.390 million lb (2.445 million kg), the rule would set the Federal for-hire component quota at 2,279,970 lb (1,034,177 kg), round weight and the private angling component quota at 3,110,030 lb (1,410,686 kg), round weight.

In determining the allocation, the Council considered eight alternatives that were based on average percentages of red snapper harvested by the Federal for-hire and the private angling components during various time intervals between 1986 and 2013. These allocation alternatives were calculated using revised landings data and models developed from a Marine Recreational Information Program calibration workshop. This workshop evaluated the potential effects of a change in sampling design in 2013 that resulted in increased estimates of red snapper recreational effort and landings. In order to ensure that the Council's allocation decision was based on the best scientific information available, the preliminary results of this workshop were presented to the Council at the October 2014 meeting and the Council was advised that the preferred allocation reflected in the briefing book version of Amendment 40 could change by up to ±3.3 percent. The Council discussed this new information before submitting Amendment 40 to the Secretary of Commerce for review and implementation. When the final results from the workshop were incorporated in Amendment 40, 1.7 percent of the recreational quota was shifted from the Federal for-hire component to the private angling component. This did not result in any changes to the season length projections included in Amendment 40 that estimated the Federal for-hire and private angling fishing seasons if sector separation had been implemented in 2014.

The Council also considered the analysis included in Amendment 40 that addressed the economic impacts of establishing the two recreational sector components and allocating the recreational quota between these two components. A quantitative economic analysis is not presented in the amendment, because the information required for such an analysis is not available. However, Amendment 40 includes an extensive qualitative economic analysis based on the best scientific information available. NMFS has made a preliminary determination that Amendment 40 and the proposed rule are consistent with the mandate in National Standard 8 to use economic and social data that meet the requirements of National Standard 2, which states that conservation and management measures shall be based on the best scientific information available.

The Council selected the alternative that combined the longest time period of available landings (1986–2013) with landings from a more recent range of years (2006–2013). Averages from each of the two time periods were then equally weighted to determine the allocation. The Council selected this allocation because it reflects both historical changes in the recreational sector as well as current conditions. It is also an approach used by the Council in setting allocations for other species (*e.g.,* the jurisdictional apportionment of black grouper and yellowtail snapper resources between the Gulf and South Atlantic Councils).

NMFS has made a preliminary determination that this allocation is fair and equitable, and does not discriminate directly or indirectly among residents of different states, consistent with National Standard 4. NMFS recognizes that the allocation could limit the length of the Federal fishing season for the private-angling component. However, increasing effort, larger fish in the population as the species rebuilds, and inconsistent state seasons have already limited recreational fishing opportunities for red snapper in Federal waters, resulting most recently in a 9-day Federal fishing season in 2014. In addition, a shorter Federal fishing season for the private-angling component will likely be offset by any extended state fishing seasons; private anglers are able to fish for red snapper in state waters outside the Federal fishing season. By separating the sectors, Amendment 40 is expected to increase the total benefits to the recreational sector by stabilizing the Federal for-hire component's participation in the sector, creating a platform for future management that can focus on maximizing opportunities for each component, reducing discard mortality, and reducing the likelihood of recreational quota overruns.

NMFS has also made a preliminary determination that Amendment 40 and the proposed rule is consistent with National Standard 10, which requires that conservation and management measures, to the extent practicable, promote the safety of human life at sea. As noted above, a shorter Federal fishing season for the private-angling component will be offset by any extended state fishing seasons, reducing any incentive to fish in unsafe conditions. In addition, unlike commercial fishermen, private anglers do not have an economic incentive to fish in unsafe conditions. Thus, NMFS has determined that it is unlikely that private anglers will attempt to fish for red snapper in Federal waters in hazardous weather conditions.

Recreational Season Closure Provisions

The proposed rule would establish separate red snapper seasonal closure provisions for the Federal for-hire and private angling components based on each component's ACT. Each component's season would begin on June 1 and the season length would be projected from each component's ACT. The ACTs would be reduced from each component's quota by 20 percent. This

is intended to reduce the likelihood that either component will exceed its quota. In 2014, the recreational fishing season was set based on an ACT that was 20 percent below the recreational quota and preliminary landings estimates indicate that this was effective in constraining recreational landings to the quota.

Given the respective component quotas given above, the Federal charter vessel/headboat component ACT would be 1.824 million lb (0.827 million kg), round weight, and the private angling ACT would be 2.488 million lb (1.129 million kg), round weight. Season lengths would be determined after more information about 2014 recreational landings data and the results of an update stock assessment are available.

Sunset Provision

This rule would implement a 3-year sunset provision for the establishment of the Federal for-hire and private angling components and associated management measures. For example, if this rule is implemented in time for the June 1, 2015, Federal recreational fishing season, the components and associated management measures would be effective through the end of the 2017 fishing year, on December 31, 2017. For these components and management measures to extend beyond 3 years, the Council would need to take further action.

Red Snapper Framework Action

As noted above, NMFS published a proposed rule to implement a framework action to the FMP to revise the recreational AMs for red snapper and establish a recreational ACT for red snapper (79 FR 69418, November 21, 2014). That proposed rule added paragraph (q) to § 622.41, and this proposed rule would revise paragraph (q) to § 622.41 to include component specific ACTs and closure provisions. The final rule for the framework action is under development and is expected to publish before a final rule implementing Amendment 40 is published.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator for Fisheries has determined that this proposed rule is consistent with Amendment 40, the FMP, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

The purpose of this proposed rule is to establish distinct private angling and Federal for-hire components of the recreational sector that harvests red snapper and allocate the allowable portion of the red snapper resource between these two components to facilitate the development of management approaches tailored to each component. The Magnuson-Stevens Act provides the statutory basis for this proposed rule.

This proposed rule, if implemented, would directly affect all vessels with a Federal charter vessel/headboat permit for Gulf reef fish (hereafter referred to as a for-hire permit). For-hire vessels that only have a state permit would not be directly affected because they cannot take paying passengers to fish for red snapper in the EEZ. Headboats, which charge a fee per passenger, and charter vessels, which charge a fee on a whole vessel basis, are types of vessel operations that participate in the for-hire fishing sector. A Federal for-hire permit is required for for-hire vessels to harvest reef fish species, including red snapper, in the Gulf exclusive economic zone. On May 29, 2014, there were 1,336 valid (non-expired) or renewable Gulf reef fish for-hire permits. A renewable permit is an expired permit that may not be actively fished, but is renewable for up to 1 year after expiration. Although the for-hire permit application collects information on the primary method of operation, the permit itself does not identify the permitted vessel as either a headboat or a charter vessel and vessels may operate in both capacities. However, only federally permitted headboats are required to submit harvest and effort information to the NMFS Southeast Region Headboat Survey (SRHS). Participation in the SRHS is based on determination by the Southeast Fishery Science Center that the vessel primarily operates as a headboat. Sixty-seven vessels were registered in the SHRS as of April 8, 2014. As a result, the estimated 1,336 vessels expected to be directly affected by this proposed rule are expected to consist of 1,269 charter vessels and 67 headboats. The average charter vessel is estimated to receive approximately $83,000 (2013 dollars) in annual revenue. The average headboat is estimated to receive approximately $251,000 (2013 dollars) in annual revenue.

NMFS has not identified any other small entities that might be directly affected by this proposed rule.

The Small Business Administration has established size criteria for all major industry sectors in the U.S., including fish harvesters. A business involved in the for-hire fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $7.5 million (NAICS code 487210, for-hire businesses) for all its affiliated operations worldwide. All for-hire businesses expected to be directly affected by this proposed rule are believed to be small business entities.

This proposed rule contains three actions that would establish separate Federal for-hire and private angler components for the recreational harvest of red snapper in the Gulf, specify the red snapper quota for each component, and set separate red snapper season closure provisions, based on the annual catch target, for each component. These proposed management changes would sunset after 3 years. Collectively, these actions would be expected to result in increased economic benefits to for-hire small business entities because they would increase the management flexibility to implement component-specific measures designed to increase the economic benefits accruing to each component. The immediate direct economic benefits of this proposed rule primarily, if not exclusively, would be expected to result from the specification of a for-hire component quota. Establishing the for-hire component would establish the platform on which to specify an allocation. Otherwise, no other immediate direct effects would accrue to this action. Establishing separate components, however, would enable future management changes that may be expected to result in increased economic benefits to small entities. These effects would be a direct effect of these future changes, and would be evaluated at that time, and not a direct effect of this proposed rule. Separate seasonal closure provisions would both aid the development of future component-specific management measures designed to increase economic benefits, and help ensure that the benefits expected to accrue to separate component quotas are realized.

The proposed for-hire quota would result from an allocation of 42.3 percent, that is larger than the portion of the allowable red snapper harvest taken by for-hire anglers in 2013 (18 percent) and the average annual harvest of 2011–2013 (23 percent). As a result, the proposed

quota would be expected to result in an increase in the red snapper harvest by for-hire anglers, an increase in the number of anglers that harvest red snapper from Federal for-hire vessels and, in turn, an increase in revenue and profits to for-hire vessels carrying these anglers. Meaningful estimation of the total increase in revenue and profits across the entire industry (all Federal for-hire vessels) or per vessel is not possible with available data. Increasing the amount of red snapper that can be harvested by anglers fishing from Federal for-hire vessels would be expected to increase the number of days red snapper may be harvested by these anglers. Because this would augment the ''harvest opportunity'' provided by a Federal for-hire vessel during the potentially extended season, some Federal for-hire vessels may be able to charge a higher price if angler demand is sufficient. Perhaps more importantly, only a portion of the increased allowable harvest by for-hire anglers would be expected to be taken on new trips. The remaining portion of the quota would be harvested on trips that would occur even if the red snapper season were closed, but could now keep red snapper as a result of the increase in the quota and associated extended season. Federal for-hire revenue would only increase if higher fees are charged or new trips occur. However, because competition would be expected to reduce the opportunity to increase for-hire prices, increases in revenue, and associated profits, are more likely to come from new trips. The proposed sunset provision would be expected to limit the duration of these effects, but not the amount or direction (increased revenue and profits) of these effects.

Because of the uncertainty associated with these factors, meaningful estimates of the expected change in revenue or profits cannot be generated. Nevertheless, the net effect of the actions in this proposed rule is expected to be an increase in profit to the affected Federal for-hire small business entities.

Because this proposed rule, if implemented, would not be expected to have a significant direct adverse economic effect on a substantial number of small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Gulf, Quotas, Recreational, Red Snapper.

Dated: January 16, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 622.8, paragraphs (a) and (c) are revised to read as follows:

§ 622.8 Quotas—general.

(a) Quotas apply for the fishing year for each species, species group, sector or component, unless accountability measures are implemented during the fishing year pursuant to the applicable annual catch limits and accountability measures sections of subparts B through V of this part due to a quota overage occurring the previous year, in which case a reduced quota will be specified through notification in the **Federal Register**. Annual quota increases are contingent on the total allowable catch for the applicable species not being exceeded in the previous fishing year. If the total allowable catch is exceeded in the previous fishing year, the RA will file a notification with the Office of the Federal Register to maintain the quota for the applicable species, sector or component from the previous fishing year for following fishing years, unless the best scientific information available determines maintaining the quota from the previous year is unnecessary. Except for the quotas for Gulf and South Atlantic coral, the quotas include species harvested from state waters adjoining the EEZ.

* * * * *

(c) *Reopening.* When a species, sector or component has been closed based on a projection of the quota specified in this part, or the ACL specified in the applicable annual catch limits and accountability measures sections of subparts B through V of this part being reached and subsequent data indicate that the quota or ACL was not reached, the Assistant Administrator may file a notification to that effect with the Office of the Federal Register. Such notification may reopen the species, sector or component to provide an opportunity for the quota or ACL to be harvested.

■ 3. In § 622.39, paragraphs (a)(2)(i) and (c) are revised to read as follows:

§ 622.39 Quotas.

* * * * *

(a) * * *

(2) * * *

(i) *Recreational quota for red snapper.* (A) *Total recreational quota (Federal charter vessel/headboat and private angling component quotas combined)*—5.390 million lb (2.445 million kg), round weight.

(B) *Federal charter vessel/headboat component quota*—2,279,970 lb (1,034,177 kg), round weight. The Federal charter vessel/headboat component quota applies to vessels that have a valid Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component quota is effective for only the 2015, 2016, and 2017 fishing years. For the 2018 and subsequent fishing years, the total recreational quota specified in § 622.39(a)(2)(i)(A) will apply to the recreational sector.

(C) *Private angling component quota*—3,110,030 lb (1,410,686 kg), round weight. The private angling component quota applies to vessels that fish under the bag limit and do not have a Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component quota is effective for only the 2015, 2016, and 2017 fishing years. For the 2018 and subsequent fishing years, the total recreational quota specified in § 622.39(a)(2)(i)(A) will apply to the recreational sector.

* * * * *

(c) *Restrictions applicable after a recreational quota closure or recreational component quota closure.* The bag limit for the applicable species for the recreational sector or recreational sector component in or from the Gulf EEZ is zero. When the Federal charter vessel/headboat component is closed or the entire recreational sector is closed, this bag and possession limit applies in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued, without regard to where such species were harvested, *i.e.* in state or Federal waters.

■ 4. In § 622.41, paragraph (q) is revised to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(q) *Red snapper*—(1) *Commercial sector.* The IFQ program for red snapper in the Gulf of Mexico serves as the accountability measure for commercial red snapper. The commercial ACL for red snapper is equal to the commercial quota specified in § 622.39(a)(1)(i).

(2) *Recreational sector.* (i) The AA will determine the length of the red snapper recreational fishing season, or recreational fishing seasons for the Federal charter vessel/headboat and private angling components, based on when recreational landings are projected to reach the recreational ACT, or respective recreational component ACT specified in paragraph (q)(2)(iii) of this section, and announce the closure date(s) in the **Federal Register**. These seasons will serve as in-season accountability measures. On and after the effective date of the recreational closure or recreational component closure notifications, the bag and possession limit for red snapper or for the respective component is zero. When the recreational sector or Federal charter vessel/headboat component is closed, this bag and possession limit applies in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) In addition to the measures specified in paragraph (q)(2)(i) of this section, if red snapper recreational landings, as estimated by the SRD, exceed the total recreational quota specified in § 622.39(a)(2)(i)(A), and red snapper are overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the total recreational quota by the amount of the quota overage in the prior fishing year, and if applicable, reduce the recreational component ACTs specified in paragraph (q)(2)(iii) of this section (based on the buffer between the component ACTs and the total recreational quota specified in the FMP), unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary.

(iii) The recreational ACL is equal to the total recreational quota specified in § 622.39(b)(2)(i)(A). The total recreational ACT for red snapper is 4.312 million lb (1.956 million kg), round weight. The recreational component ACTs for red snapper are 1.824 million lb (0.827 million kg), round weight, for the Federal charter vessel/headboat component and 2.488 million lb (1.129 million kg), round weight, for the private angling component. These recreational component ACTs are effective for only the 2015, 2016, and 2017 fishing years. For the 2018 and subsequent fishing years, the total recreational ACT will apply to the recreational sector.

[FR Doc. 2015–01145 Filed 1–22–15; 8:45 am]

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Notices

Federal Register
Vol. 80, No. 15
Friday, January 23, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0074]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Interstate Movement of Sheep and Goats and Recordkeeping for Approved Livestock Facilities and Slaughtering and Rendering Establishments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with regulations for the interstate movement of sheep and goats and recordkeeping for approved livestock facilities and slaughtering and rendering establishments.

DATES: We will consider all comments that we receive on or before March 24, 2015.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0074.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS-2014–0074, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0074* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the interstate movement of sheep and goats and recordkeeping for approved livestock facilities and slaughtering and rendering establishments, contact Dr. Gary S. Ross, Senior Staff Veterinarian, Surveillance, Cattle Health Center, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737; (301) 851–3535. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

SUPPLEMENTARY INFORMATION:

Title: Interstate Movement of Sheep and Goats and Recordkeeping for Approved Livestock Facilities and Slaughtering and Rendering Establishments.

OMB Control Number: 0579–0258.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the U.S. Department of Agriculture's (USDA's) Animal and Plant Health Inspection Service (APHIS) is authorized, among other things, to prohibit or restrict the interstate movement of animals and animal products to prevent the dissemination within the United States of animal diseases and pests of livestock and to conduct programs to detect, control, and eradicate pests and diseases of livestock. In support of this mission, APHIS' Veterinary Services (VS) prohibits or restricts the interstate movement of livestock that have, or have been exposed to, certain diseases.

APHIS regulations in 9 CFR part 71 restrict the interstate movement of livestock, including sheep and goats, to control the spread of disease and include provisions for livestock facilities that handle livestock moving in interstate commerce to be approved by APHIS. These requirements are intended to ensure that such facilities are constructed and operated in a manner that will help prevent the spread of disease and involve information collection activities, including an Approval of Livestock Facilities Agreement and recordkeeping.

The regulations in § 71.20 contain provisions under which livestock facilities [1] may acquire and retain status as an approved facility. To obtain approval, facilities must enter into an agreement with APHIS in which they agree to follow certain procedures when handling livestock entering the facility. Part of this agreement states that documents such as weight tickets, sales slips, and records of origin, identification, and destination that relate to livestock that are in, or that have been in, the facility shall be maintained by the facility for a period of 5 years (2 years if the records regard only swine or poultry). Such records would be critical in the event that APHIS or State animal health officials needed to conduct a disease traceback investigation.

Section 71.20 also requires, among other things, authorized personnel at approved livestock facilities to sign an agreement that they will meet the requirements listed in that section, such as ensuring the facilities contain well-constructed and well-lighted livestock handling chutes, pens, alleys, and sales rings and allowing APHIS or its representatives to inspect, officially identify, vaccinate, take blood and tissue specimens for testing purposes.

Section 71.21 of the regulations requires, among other things, authorized personnel at listed slaughtering and rendering facilities to sign an agreement that they will meet the requirements listed in that section, such as providing office and sample collection space and allowing APHIS or its representatives to take blood and tissue specimens from livestock, record the identification of animals, retain any external or internal identification devices, and conduct records inspections. The listing agreement is the VS Listing Agreement for a Slaughter Establishment Handling Livestock or Livestock Carcasses (Non-

[1] On January 2, 2015, APHIS published a proposed rule in the **Federal Register** (80 FR 6–13, Docket No. APHIS–2014–0018) that proposes to amend the regulations governing approval of facilities that receive livestock moved in interstate commerce. In that document, we propose to add and define the term *approved livestock marketing facility* in the regulations. If the proposed rule is finalized, we will revise this collection at the next request for extension of approval of this information collection.

Poultry) in Interstate Commerce Pursuant to Title 9, Code of Federal Regulations (VS Form 10–6).

This notice includes a description of the information collection requirements currently approved by the Office of Management and Budget (OMB) for recordkeeping for approved livestock facilities and slaughtering and rendering establishments under number 0579–0342, and for the interstate movement of sheep and goats under number 0579–0258. These collections pertain to the same regulations (§§ 71.20 and 71.21); therefore, we will consolidate them into one collection. After OMB approves and combines the burden for both collections under one collection (number 0579–0258), the Department will retire number 0579–0342.

We are asking OMB to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: Livestock marketing facility personnel, owners or operators of livestock facilities that handle animals moving interstate, authorized personnel at listed slaughter and rendering facilities, and State animal health officials.

Estimated annual number of respondents: 234.

Estimated annual number of responses per respondent: 5.

Estimated annual number of responses: 1,026.

Estimated total annual burden on respondents: 546 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 16th day of January 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–01054 Filed 1–22–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0096]

Notice of Availability of a Pest List for the Interstate Movement of Fresh Sea Asparagus Tips From Hawaii Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we have prepared a pest list and risk management document regarding the risks associated with the interstate movement of fresh sea asparagus tips from Hawaii into the continental United States. Based on these documents, we have determined that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the movement of fresh sea asparagus tips from Hawaii. We are making these documents available to the public for review and comment.

DATES: We will consider all comments that we receive on or before March 24, 2015.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0096.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0096, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0096* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. David Lamb, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2103.

SUPPLEMENTARY INFORMATION: Under the regulations in ''Subpart—Regulated Articles From Hawaii and the Territories'' (7 CFR 318.13–1 through 318.13–26, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the interstate movement of fruits and vegetables from Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands to the continental United States to prevent the spread of plant pests and noxious weeds that occur in Hawaii and the territories.

Section 318.13–4 contains a performance-based process for approving the interstate movement of certain fruits and vegetables from Hawaii and the U.S. territories that, based on the findings of a pest list, can be safely moved subject to one or more of the six designated phytosanitary measures listed in § 318.13–4(b).

APHIS received a request from the Hawaii Department of Agriculture to allow the interstate movement of fresh sea asparagus tips (*Salicornia bigelovii* Torr.) to the continental United States. Hawaii has indicated a specific interest in production and shipment of fresh sea asparagus tips, which are currently prohibited from interstate movement from Hawaii to the continental United States.

We have prepared a pest list to identify pests of quarantine significance that could follow the pathway of interstate movement into the continental United States. Based on that pest list, we prepared a risk management document (RMD) to identify phytosanitary measures that could be applied to the commodity to mitigate the pest risk. We have concluded that fresh sea asparagus tips can be safely moved from Hawaii to the continental United States using one or more of the six designated phytosanitary measures listed in § 318.13–4(b). Specifically, fresh seas asparagus tips would have to be moved interstate as commercial consignments only and be subject to pre-departure inspection in Hawaii prior to interstate movement into the continental United States.

Therefore, in accordance with § 318.13–4(c), we are announcing the availability of our pest list and RMD for public review and comment. The documents may be viewed on the *Regulations.gov* Web site or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of the pest list and RMD by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the interstate movement of fresh sea asparagus tips from Hawaii in a subsequent notice. If the overall conclusions of our analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will authorize the interstate movement of fresh sea asparagus tips from Hawaii into the continental United States subject to the requirements specified in the RMD.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 16th day of January 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–01148 Filed 1–22–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Public Open House Meetings for the Tongass Land and Resource Management Plan Amendment

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The Tongass National Forest is working to complete an amendment to the Tongass Land and Resource Management Plan (forest plan) by August 2016. The scope of the plan amendment is narrowly focused to accomplish a transition to young growth management as provided in the Secretary's Memorandum (1044–009), and to make renewable energy development more permissive on the Tongass. Changes to the forest plan are being developed under the new National Forest System land management planning rule (36 CFR part 219) (2012 planning rule), and embody the provisions of the National Forest Management Act. The Tongass is the first national forest to amend a plan completed under the 1982 planning rule using the 2012 planning rule.

Based on public scoping comments received on the Notice of Intent (NOI) that was published in the **Federal Register** (FR) on May 27, 2014 (79 FR 30074), as well as comments received on the five-year review of the forest plan, four issues were identified that focus on: (1) Young-growth transition; (2) renewable energy; (3) roadless areas; and (4) wildlife habitat and the old growth conservation strategy.

Three public open houses have been planned in Juneau, Sitka and Ketchikan, Alaska to share information with the public about the progress being made on the Proposed Forest Plan Amendment and Draft EIS, and to provide opportunity for the public to comment on the Draft Plan Monitoring Program.

DATES: The public open house dates and times are:

1. January 26, 2015, 5:00 p.m. to 8 p.m., Juneau, AK.

2. January 28, 2015, 5:00 p.m. to 8 p.m., Sitka, AK.

3. February 2, 2015, 5:00 p.m. to 8 p.m., Ketchikan, AK.

Comments concerning the Tongass National Forest Draft Plan Monitoring Program will be accepted for 30 days following publication of this Notice.

ADDRESSES: The public open house locations are:

1. Juneau—USDA Forest Service (Juneau Ranger District/Admiralty National Monument Conference Room), 8510 Mendenhall Loop Road, Juneau, AK 99801.

2. Sitka—Harrigan Centennial Hall (Rousseau Room), 330 Harbor Drive, Sitka, AK 99835.

3. Ketchikan—Southeast Alaska Discovery Center, 50 Main Street, Ketchikan, AK 99901.

The Tongass National Forest Draft Plan Monitoring Program is available for public review and located at *http://www.fs.usda.gov/main/tongass/landmanagement/planning.*

Send or hand-deliver written comments on the Tongass National Forest Draft Plan Monitoring Program to: Tongass National Forest, Attn: Susan Howle, 648 Mission Street, Ketchikan, Alaska 99901. The FAX number is (907) 228–6215. Comments may be sent via email to: *comments-alaska-tongass@fs.fed.us* with ''Tongass National Forest Draft Plan Monitoring Program'' on the subject line. Comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

In all correspondence, please include your name, address, and organization name if you are commenting as a representative of an organization. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

In addition to this Notice, display ads will be placed in the *Juneau Empire, Sitka Sentinel and Ketchikan Daily News* (newspaper of record).

FOR FURTHER INFORMATION CONTACT: Susan Howle, Project Manager, Tongass National Forest, (907) 228–6340, *showle@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The 2012 planning rule requires that an existing plan's monitoring program must be made to conform to the monitoring requirements of the rule within 4 years of the rule's May 9, 2012 effective date (May 9, 2016), or as soon as practicable.

The Tongass National Forest has a robust plan monitoring program that already addresses many of the eight requirements listed in the 2012 Planning Rule. The Draft Plan Monitoring Program will transition the monitoring plan out of the forest plan, thus providing the opportunity to more easily adapt to changing conditions on the forest.

Forrest Cole,

Forest Supervisor, Tongass National Forest.

[FR Doc. 2015–01095 Filed 1–22–15; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Contingent Valuation/Choice Experiment Surveys for Hurricane Sandy Restoration Efforts in Forsythe National Wildlife Refuge in New Jersey and Jamaica Bay, NY.

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Request: Regular (request for a new information collection).

Number of Respondents: 1,035.

Average Hours per Response: Forsyth Refuge survey, 20 minutes; Jamaica Bay Survey, 25 minutes.

Burden Hours: 389.

Needs and Uses: This request is for a new information collection.

Superstorm Sandy caused significant damage to the New York and New Jersey coast. There are numerous ongoing and planned projects to repair the damage caused by the storm. The Disaster Relief Appropriations Act of 2012 provided NOAA with funding to assess the ecosystem service values associated with restoration options being considered in the wake of Sandy. Two geographic areas that were particularly impacted by the Storm were the Forsythe National Wildlife Refuge in New Jersey and Jamaica Bay in New York. Under this collection effort, the NOAA Office for Coastal Management will implement a contingent valuation survey to assess the value of the ecosystem services that will be generated by restoration projects being implemented in both areas. Data will be collected from individuals who reside in the New York and New Jersey areas. NOAA will implement two separate surveys: One for each geographic area.

There are a number of restoration projects that are ongoing in the Forsythe National Wildlife Refuge and in Jamaica Bay. After reviewing the scope and focus of many of those restoration projects, NOAA has decided to focus on two specific projects. For the Forsythe National Wildlife Refuge, NOAA will focus on the work being done under a $15 million project being conducted by the U.S. Fish and Wildlife Service. The Forsythe project will focus on restoring and enhancing the salt marsh at the Refuge to act as a natural protection from storms and to act as a habitat for wildlife. In assessing ecosystem service benefits for the Forsythe restoration work, NOAA will focus on the value of the salt marsh for storm protection, habitat, and recreation, as well as other possible ecosystem services.

The Jamaica Bay area has a number of planned and ongoing projects. NOAA has decided to focus on work being conducted at Spring Creek Park on the northern point of Jamaica Bay. The restoration work at the park will involve improving habitat and storm and flood protection. NOAA will focus on the associated ecosystem services from habitat improvements and the added storm and flood protection.

NOAA is currently contacting and working with partners and stakeholders at each site to ensure the relevancy of this work.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: January 16, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–01080 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–JS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1959]

Grant of Authority; Establishment of a Foreign-Trade Zone Under the Alternative Site Framework, Lake County, Florida

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the City of Leesburg (the Grantee) has made application to the Board (B–27–2014, docketed 03/21/2014) requesting the establishment of a foreign-trade zone under the ASF with a service area that includes Lake County, Florida, within and adjacent to the Leesburg Customs and Border Protection user fee airport, and proposed Sites 1 and 2 would be categorized as magnet sites;

Whereas, notice inviting public comment has been given in the **Federal Register** (79 FR 17132–17133, 03/27/2014) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 292, as described in the application, and subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit, and to an ASF sunset provision for magnet sites that would terminate authority for Site 2 if not activated within the initial ten years from the month of approval.

Signed at Washington, DC, this 5th day of January 2015.

Penny Pritzker,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

ATTEST:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–01232 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1958]

Grant of Authority; Establishment of a Foreign-Trade Zone Under the Alternative Site Framework, Cameron Parish, Louisiana

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

WHEREAS, the Foreign-Trade Zones Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

WHEREAS, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

WHEREAS, the West Cameron Port Commission (the Grantee), a Louisiana political subdivision, has made application to the Board (B–23–2014, docketed 03/12/2014) requesting the

establishment of a foreign-trade zone under the ASF with a service area that includes Wards 3, 4, 5 and 6 of Cameron Parish, Louisiana, adjacent to the Lake Charles Customs and Border Protection port of entry, and proposed Site 1 would be categorized as a usage-driven site;

WHEREAS, notice inviting public comment has been given in the **Federal Register** (79 FR 14666, 03/17/2014) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

WHEREAS, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

NOW, THEREFORE, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 291, as described in the application, and subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit, and to a three-year ASF sunset provision for usage-driven sites that would terminate authority for Site 1 if no foreign-status merchandise is admitted for a *bona fide* customs purpose within three years from the month of approval.

Signed at Washington, DC, this 5th day of January 2015.

Penny Pritzker,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

ATTEST:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–01236 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1961]

Reorganization of Foreign-Trade Zone 238 Under Alternative Site Framework, Dublin, Virginia

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the New River Valley Economic Development Alliance, Inc., grantee of Foreign-Trade Zone 238, submitted an application to the Board (FTZ Docket B–19–2014, docketed 02–26–2014) for authority to reorganize under the ASF with a service area including the Counties of Alleghany, Amherst, Bedford, Bland, Botetourt, Campbell, Carroll, Craig, Floyd, Franklin, Giles, Grayson, Henry, Montgomery, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Smyth, Tazewell and Wythe, and the Cities of Bedford, Buena Vista, Covington, Danville, Galax, Lynchburg, Martinsville, Radford, Roanoke and Salem, Virginia, within and adjacent to the New River Valley Airport Customs and Border Protection port of entry, and FTZ 238's existing Sites 1 and 2 would be categorized as magnet sites;

Whereas, notice inviting public comment was given in the **Federal Register** (79 FR 12149–12150, 03–04–2014) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendation of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 238 under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, and to an ASF sunset provision for magnet sites that would terminate authority for Site 2 if not activated within five years from the month of approval.

Signed at Washington, DC, this 9th day of January 2015.

Paul Piquado,

Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

ATTEST:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–01231 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1963]

Reorganization of Foreign-Trade Zone 93 (Expansion of Service Area) Under Alternative Site Framework, Raleigh-Durham, North Carolina

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Triangle J Council of Governments, grantee of Foreign-Trade Zone 93, submitted an application to the Board (FTZ Docket B–66–2014, docketed 09–23–2014) for authority to expand the service area of the zone to include Sampson County, as described in the application, adjacent to the Raleigh-Durham Customs and Border Protection port of entry;

Whereas, notice inviting public comment was given in the **Federal Register** (79 FR 58318, 09–29–2014) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 93 to expand the service area under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and to the Board's standard 2,000-acre activation limit for the zone.

Signed at Washington, DC, this 9th day of January 2015.

Paul Piquado,

Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

ATTEST:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–01229 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1962]

Reorganization of Foreign-Trade Zone 40 (Expansion of Service Area) Under Alternative Site Framework, Cleveland, Ohio

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15

CFR 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Cleveland Cuyahoga County Port Authority, grantee of Foreign-Trade Zone 40, submitted an application to the Board (FTZ Docket B–70–2014, docketed 10/1/2014) for authority to expand the service area of the zone to include Lake County, Ohio, as described in the application, adjacent to the Cleveland, Ohio Customs and Border Protection port of entry;

Whereas, notice inviting public comment was given in the **Federal Register** (79 FR 61050, 10/9/2014) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 40 to expand the service area under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and to the Board's standard 2,000-acre activation limit for the zone.

Signed at Washington, DC, this 9th day of January 2015.

Paul Piquado,

Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

ATTEST:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–01230 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Renewing Order Temporarily Denying Export Privileges

Mahan Airways, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp. Way, Tehran, Iran;

Pejman Mahmood Kosarayanifard a/k/a Kosarian Fard, P.O. Box 52404, Dubai, United Arab Emirates;

Mahmoud Amini, G#22 Dubai Airport Free Zone, P.O. Box 393754, Dubai, United Arab Emirates; and P.O. Box 52404, Dubai, United Arab Emirates; and Mohamed Abdulla Alqaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates;

Kerman Aviation a/k/a GIE Kerman Aviation, 42 Avenue Montaigne 75008, Paris, France;

Sirjanco Trading LLC, P.O. Box 8709, Dubai, United Arab Emirates;

Ali Eslamian, 4th Floor, 33 Cavendish Square, London, W1G0PW, United Kingdom; and 2 Bentinck Close, Prince Albert Road St. Johns Wood, London NW87RY, United Kingdom;

Mahan Air General Trading LLC, 19th Floor Al Moosa Tower One, Sheik Zayed Road, Dubai 40594, United Arab Emirates;

Skyco (UK) Ltd., 4th Floor, 33 Cavendish Square, London, W1G 0PV, United Kingdom;

Equipco (UK) Ltd., 2 Bentinck Close, Prince Albert Road, London, NW8 7RY, United Kingdom;

Mehdi Bahrami, Mahan Airways—Istanbul Office, Cumhuriye Cad. Sibil Apt No: 101 D:6, 34374 Emadad, Sisli Istanbul, Turkey.

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (2014) (''EAR'' or the ''Regulations''),[1] I hereby grant the request of the Office of Export Enforcement (''OEE'') to renew the July 22, 2014 Order Temporarily Denying the Export Privileges of Mahan Airways, Pejman Mahmood Kosarayanifard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Ali Eslamian, Mahan Air General Trading LLC, Skyco (UK) Ltd., Equipco (UK) Ltd., and Mehdi Bahrami.[2] I find that renewal of the Temporary Denial Order (''TDO'') is necessary in the public interest to prevent an imminent violation of the EAR.

I. Procedural History

On March 17, 2008, Darryl W. Jackson, the then-Assistant Secretary of Commerce for Export Enforcement (''Assistant Secretary''), signed a TDO denying Mahan Airways' export privileges for a period of 180 days on the grounds that its issuance was necessary in the public interest to prevent an imminent violation of the Regulations. The TDO also named as denied persons Blue Airways, of Yerevan, Armenia (''Blue Airways of Armenia''), as well as the ''Balli Group Respondents,'' namely, Balli Group PLC, Balli Aviation, Balli Holdings, Vahid Alaghband, Hassan Alaghband, Blue Sky One Ltd., Blue Sky Two Ltd., Blue Sky Three Ltd., Blue Sky Four Ltd., Blue Sky Five Ltd., and Blue Sky Six Ltd., all of the United Kingdom. The TDO was issued *ex parte* pursuant to Section 766.24(a), and went into effect on March 21, 2008, the date it was published in the **Federal Register**.

The TDO subsequently has been renewed in accordance with Section 766.24(d), including most recently on July 22, 2014.[3] As of March 9, 2010, the Balli Group Respondents and Blue Airways were no longer subject to the TDO. As part of the February 25, 2011 TDO renewal, Gatewick LLC (a/k/a Gatewick Freight and Cargo Services, a/k/a Gatewick Aviation Services), Mahmoud Amini, and Pejman Mahmood Kosarayanifard (''Kosarian Fard'') were added as related persons in accordance with Section 766.23 of the Regulations. On July 1, 2011, the TDO was modified by adding Zarand Aviation as a respondent in order to prevent an imminent violation.[4] As part of the August 24, 2011 renewal, Kerman Aviation, Sirjanco Trading LLC, and Ali Eslamian were added to the TDO as related persons. Mahan Air General Trading LLC, Skyco (UK) Ltd., and Equipco (UK) Ltd. were added as related persons on April 9, 2012. Mehdi Bahrami was added to the TDO as a related person as part of the February 4, 2013 renewal order.

On December 24, 2014, BIS, through its Office of Export Enforcement (''OEE''), submitted a written request for renewal of the TDO.[5] The written request was made more than 20 days before the scheduled expiration of the current TDO dated July 22, 2014. Notice of the renewal request also was provided to Mahan Airways in accordance with Sections 766.5 and 766.24(d) of the Regulations. No opposition to the renewal of the TDO has been received from Mahan.

[1] The Regulations, currently codified at 15 CFR parts 730–774 (2014), originally issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401–2420 (2000)). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 FR 46,959 (Aug. 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

[2] See note 5, *infra.*

[3] The July 22, 2014 Order was published in the **Federal Register** on July 29, 2014. 79 FR 44002 (Jul. 29, 2014). The TDO previously had been renewed on September 17, 2008, March 16, 2009, September 11, 2009, March 9, 2010, September 3, 2010, February 25, 2011, August 24, 2011, February 15, 2012, August 9, 2012, February 4, 2013, July 31, 2013, and January 24, 2014. The August 24, 2011 renewal followed the modification of the TDO on July 1, 2011, which added Zarand Aviation as a respondent. Each renewal or modification order was published in the **Federal Register**.

[4] As of July 22, 2014, Zarand Aviation was no longer subject to the TDO.

[5] The December 24, 2014 renewal request does not include Gatewick LLC. On August 13, 2014, BIS and Gatewick LLC resolved administrative charges against Gatewick, including a charge for acting contrary to the terms of a BIS denial order (15 CFR 764.2(k)). In addition to the payment of a civil penalty, the settlement includes a seven-year denial order. The first two years of the denial period are active, with the remaining five years suspended on condition that Gatewick LLC pays the civil penalty in full and timely fashion and commits no further violation of the Regulations during the seven-year denial period. The Gatewick LLC Final Order was published in the **Federal Register** on August 20, 2014. *See* 79 FR 49283 (Aug. 20, 2014).

Furthermore, no appeal of the related person determinations I made as part of the September 3, 2010, February 25, 2011, August 24, 2011, April 9, 2012, and February 4, 2013 renewal or modification orders has been made by Kosarian Fard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Ali Eslamian, Mahan Air General Trading LLC, Skyco (UK) Ltd., Equipco (UK) Ltd., or Mehdi Bahrami.[6]

II. Renewal of the TDO

A. Legal Standard

Pursuant to Section 766.24, BIS may issue or renew an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations. 15 CFR 766.24(b)(1) and 776.24(d). ''A violation may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge ''is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent [.]'' *Id.* A ''lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

B. The TDO and BIS's Request for Renewal

OEE's request for renewal is based upon the facts underlying the issuance of the initial TDO and the TDO renewals in this matter and the evidence developed over the course of this investigation indicating a blatant disregard of U.S. export controls and the TDO. The initial TDO was issued as a result of evidence that showed that Mahan Airways and other parties engaged in conduct prohibited by the EAR by knowingly re-exporting to Iran three U.S.-origin aircraft, specifically Boeing 747s (''Aircraft 1–3''), items subject to the EAR and classified under Export Control Classification Number (''ECCN'') 9A991.b, without the required U.S. Government authorization. Further evidence submitted by BIS indicated that Mahan Airways was involved in the attempted re-export of three additional U.S.-origin Boeing 747s (''Aircraft 4–6'') to Iran.

As discussed in the September 17, 2008 renewal order, evidence presented by BIS indicated that Aircraft 1–3 continued to be flown on Mahan Airways' routes after issuance of the TDO, in violation of the Regulations and the TDO itself.[7] It also showed that Aircraft 1–3 had been flown in further violation of the Regulations and the TDO on the routes of Iran Air, an Iranian Government airline. Moreover, as discussed in the March 16, 2009, September 11, 2009 and March 9, 2010 Renewal Orders, Mahan Airways registered Aircraft 1–3 in Iran, obtained Iranian tail numbers for them (EP–MNA, EP–MNB, and EP–MNE, respectively), and continued to operate at least two of them in violation of the Regulations and the TDO,[8] while also committing an additional knowing and willful violation when it negotiated for and acquired an additional U.S.-origin aircraft. The additional acquired aircraft was an MD–82 aircraft, which subsequently was painted in Mahan Airways' livery and flown on multiple Mahan Airways' routes under tail number TC–TUA.

The March 9, 2010 Renewal Order also noted that a court in the United Kingdom (''U.K.'') had found Mahan Airways in contempt of court on February 1, 2010, for failing to comply with that court's December 21, 2009 and January 12, 2010 orders compelling Mahan Airways to remove the Boeing 747s from Iran and ground them in the Netherlands. Mahan Airways and the Balli Group Respondents had been litigating before the U.K. court concerning ownership and control of Aircraft 1–3. In a letter to the U.K. court dated January 12, 2010, Mahan Airways' Chairman indicated, *inter alia,* that Mahan Airways opposes U.S. Government actions against Iran, that it continued to operate the aircraft on its routes in and out of Tehran (and had 158,000 ''forward bookings'' for these aircraft), and that it wished to continue to do so and would pay damages if required by that court, rather than ground the aircraft.

The September 3, 2010 renewal order discussed the fact that Mahan Airways' violations of the TDO extended beyond operating U.S.-origin aircraft and attempting to acquire additional U.S.-origin aircraft. In February 2009, while subject to the TDO, Mahan Airways participated in the export of computer motherboards, items subject to the Regulations and designated as EAR99, from the United States to Iran, via the United Arab Emirates (''UAE''), in violation of both the TDO and the Regulations, by transporting and/or forwarding the computer motherboards from the UAE to Iran. Mahan Airways' violations were facilitated by Gatewick LLC, which not only participated in the transaction, but also has stated to BIS that it acts as Mahan Airways' sole booking agent for cargo and freight forwarding services in the UAE.

Moreover, in a January 24, 2011 filing in the U.K. court, Mahan Airways asserted that Aircraft 1–3 were not being used, but stated in pertinent part that the aircraft were being maintained in Iran especially ''in an airworthy condition'' and that, depending on the outcome of its U.K. court appeal, the aircraft ''could immediately go back into service . . . on international routes into and out of Iran.'' Mahan Airways' January 24, 2011 submission to U.K. Court of Appeal, at p. 25, ¶¶ 108, 110. This clearly stated intent, both on its own and in conjunction with Mahan Airways' prior misconduct and statements, demonstrated the need to renew the TDO in order to prevent imminent future violations. Two of these three 747s subsequently were removed from Iran and are no longer in Mahan Airways' possession. The third of these 747s, with Manufacturer's Serial Number (''MSN'') 23480 and Iranian tail number EP–MNE, remained in Iran under Mahan's control. Pursuant to Executive Order 13324, it was designated a Specially Designated Global Terrorist (''SDGT'') by the U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC'') on September 19, 2012.[9] Furthermore, as discussed in the February 4, 2013 Order, open source information indicated that this 747, painted in the livery and logo of Mahan Airways, had been flown between Iran and Syria, and was suspected of ferrying weapons and/or other equipment to the Syrian Government from Iran's Islamic Revolutionary Guard Corps. Open source information showed that this aircraft had flown from Iran to Syria as recently as June 30, 2013, and continues to show that it remains in active operation in Mahan Airways' fleet.

[6] A party named or added as a related person may not oppose the issuance or renewal of the underlying temporary denial order, but may file an appeal of the related person determination in accordance with Section 766.23(c).

[7] Engaging in conduct prohibited by a denial order violates the Regulations. 15 CFR 764.2(a) and (k).

[8] The third Boeing 747 appeared to have undergone significant service maintenance and may not have been operational at the time of the March 9, 2010 renewal order.

[9] See *http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/pages/20120919.aspx.*

In addition, as first detailed in the July 1, 2011 and August 24, 2011 orders, and discussed in subsequent renewal orders in this matter, Mahan Airways also continued to evade U.S. export control laws by operating two Airbus A310 aircraft, bearing Mahan Airways' livery and logo, on flights into and out of Iran.[10] At the time of the July 1, 2011 and August 24, 2011 Orders, these Airbus A310s were registered in France, with tail numbers F–OJHH and F–OJHI, respectively.[11]

The August 2012 renewal order also found that Mahan Airways had acquired another Airbus A310 aircraft subject to the Regulations,[12] with MSN 499 and Iranian tail number EP–VIP, in violation of the TDO and the Regulations. On September 19, 2012, all three Airbus A310 aircraft (tail numbers F–OJHH, F–OJHI, and EP–VIP) were designated as SDGTs.[13]

The February 4, 2013 Order laid out further evidence of continued and additional efforts by Mahan Airways and other persons acting in concert with Mahan, including Kral Aviation and another Turkish company, to procure U.S.-origin engines (MSNs 517621 and 517738) and other aircraft parts in violation of the TDO and the Regulations.[14] The February 4, 2013 renewal order also added Mehdi Bahrami as a related person in accordance with Section 766.23 of the Regulations. Bahrami, a Mahan Vice-President and the head of Mahan's Istanbul Office, also was involved in Mahan's acquisition of the original three Boeing 747s (Aircraft 1–3) that resulted in the original TDO, and has had a business relationship with Mahan dating back to 1997.

The July 31, 2013 Order detailed additional evidence obtained by OEE showing efforts by Mahan Airways to obtain another GE CF6–50C2 aircraft engine (MSN 528350) from the United States via Turkey. Multiple Mahan employees, including Mehdi Bahrami, were involved in or aware of matters related to the engine's arrival in Turkey from the United States, plans to visually inspect the engine, and prepare it for shipment from Turkey.

Mahan sought to obtain this U.S.-origin engine through Pioneer Logistics Havacilik Turizm Yonetim Danismanlik (''Pioneer Logistics''), an aircraft parts supplier located in Turkey, and its director/operator, Gulnihal Yegane, a Turkish national who previously has conducted Mahan related business with Mehdi Bahrami and Ali Eslamian. Moreover, as referenced in the July 31, 2013 Order, a sworn affidavit by Kosol Surinanda, also known as Kosol Surinandha, Managing Director of Mahan's General Sales Agent in Thailand, stated that the shares of Pioneer Logistics for which he was the listed owner are ''actually the property of and owned by Mahan.'' He further stated that he held ''legal title to the shares until otherwise required by Mahan'' but would ''exercise the rights granted to [him] exactly and only as instructed by Mahan and [his] vote and/or decisions [would] only and exclusively reflect the wills and demands of Mahan[.]'' [15]

The January 24, 2014 Order outlined OEE's continued investigation of Mahan Airways' activities and detailed an attempt by Mahan, which OEE thwarted, to obtain, via an Indonesian aircraft parts supplier, two U.S.-origin Honeywell ALF–502R–5 aircraft engines (MSNs LF5660 and LF5325), items subject to the Regulations, from a U.S. company located in Texas. An invoice of the Indonesian aircraft parts supplier dated March 27, 2013, listed Mahan Airways as the purchaser of the engines and included a Mahan ship-to address. OEE also obtained a Mahan air waybill dated March 12, 2013, listing numerous U.S.-origin aircraft parts subject to the Regulations—including, among other items, a vertical navigation gyroscope, a transmitter, and a power control unit—being transported by Mahan from Turkey to Iran in violation of the TDO.

The July 22, 2014 Order discusses open source evidence from the March-June 2014 time period regarding two BAE regional jets, items subject to the Regulations, that were painted in the livery and logo of Mahan Airways and operating under Iranian tail numbers EP–MOK and EP–MOI, respectively. In addition, aviation industry resources indicated that these aircraft were obtained by Mahan Airways in late November 2013 and June 2014, from Ukrainian Mediterranean Airline, a Ukrainian airline that was added to BIS's Entity List (Supplement No. 4 to Part 744 of the Regulations) on August 15, 2011, for acting contrary to the national security and foreign policy interests of the United States.[16] OEE's on-going investigation indicates that both BAE regional jets remain active in Mahan's fleet, with open source information showing EP–MOI being used on flights into and out of Iran as recently as January 12, 2015. The continued operation of these aircraft by Mahan Airways violates the TDO.

In addition to the continued operation of aircraft such as EP–MOI, OEE's December 24, 2014 renewal request includes evidence of additional attempts by Mahan Airways to acquire items subject the Regulations in further violation of the TDO. In March 2014, OEE became aware of an inertial reference unit bearing serial number 1231 (''the IRU'') that had been sent to the United States for repair. The IRU is subject to the Regulations, classified under ECCN 7A103, and controlled for

[10] The Airbus A310s are powered with U.S.-origin engines. The engines are subject to the EAR and classified under Export Control Classification (''ECCN'') 9A991.d. The Airbus A310s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR. They are classified under ECCN 9A991.b. The reexport of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

[11] OEE subsequently presented evidence that after the August 24, 2011 renewal, Mahan Airways worked along with Kerman Aviation and others to de-register the two Airbus A310 aircraft in France and to register both aircraft in Iran (with, respectively, Iranian tail numbers EP–MHH and EP–MHI). It was determined subsequent to the February 15, 2012 renewal order that the registration switch for these A310s was cancelled and that Mahan Airways then continued to fly the aircraft under the original French tail numbers (F–OJHH and F–OJHI, respectively). Both aircraft apparently remain in Mahan Airways' possession.

[12] See note 10, *supra*.

[13] See *http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/pages/20120919.aspx*. Mahan Airways was previously designated by OFAC as a SDGT on October 18, 2011. 77 FR 64,427 (October 18, 2011).

[14] Kral Aviation was referenced in the February 4, 2013 Order as ''Turkish Company No. 1.'' Kral Aviation purchased a GE CF6–50C2 aircraft engine (MSN 517621) from the United States in July 2012, on behalf of Mahan Airways. OEE was able to prevent this engine from reaching Mahan by issuing a redelivery order to the freight forwarder in accordance with Section 758.8 of the Regulations. OEE also issued Kral Aviation a redelivery order for the second CF6–50C2 engine (MSN 517738) on July 30, 2012. The owner of the second engine subsequently cancelled the item's sale to Kral Aviation. In September 2012, OEE was alerted by a U.S. exporter that another Turkish company (''Turkish Company No. 2'') was attempting to purchase aircraft spare parts intended for re-export by Turkish Company No. 2 to Mahan Airways. *See* February 4, 2013 Order.

On December 31, 2013, Kral Aviation was added to BIS's Entity List, Supplement No. 4 to Part 744 of the Regulations. *See* 78 FR 75458 (Dec. 12, 2013). Companies and individuals are added to the Entity List for engaging in activities contrary to the national security or foreign policy interests of the United States. *See* 15 CFR 744.11.

[15] Pioneer Logistics, Gulnihal Yegane, and Kosol Surinanda also were added to the Entity List on December 12, 2013. *See* 78 FR 75458 (Dec. 12, 2013).

[16] *See* 76 FR 50407 (Aug. 15, 2011). The July 22, 2014 TDO renewal order also referenced two Airbus A320 aircraft painted in the livery and logo of Mahan Airways and operating under Iranian tail numbers EP–MMK and EP–MML, respectively. OEE's investigation also showed that Mahan obtained these aircraft in November 2013, from Khors Air Company, another Ukrainian airline that, like Ukrainian Mediterranean Airlines, was added to BIS's Entity List on August 15, 2011. Open source evidence indicates the two Airbus A320 aircraft may be been transferred by Mahan Airways to another Iranian airline in October 2014, and issued Iranian tail numbers EP–APE and EP–APF, respectively.

missile technology reasons. Upon closer inspection, it was determined that IRU came from or had been installed on an Airbus A340 aircraft bearing MSN 056. Further investigation has revealed that as of approximately February 2014, this aircraft was registered under Iranian tail number EP–MMB and had been painted in the livery and logo of Mahan Airways. On August 14, 2014, the United States Attorney's Office for the District of Maryland filed a civil forfeiture complaint for the IRU pursuant to 22 U.S.C. 401(b). The Court issued an Order of Forfeiture for the IRU on December 2, 2014. EP–MMB remains listed as active in Mahan Airways' fleet.

Finally on August 29, 2014, the U.S. Department of Treasury's Office of Foreign Assets Control (''OFAC'') blocked the property and interests in property of Asian Aviation Logistics of Thailand, a Mahan Airways affiliate or front company, pursuant to Executive Order 13224. In doing so, OFAC described Mahan Airway's use of Asian Aviation Logistics to evade sanctions by making payments on behalf of Mahan Air for the purchase of engines and other equipment.[17]

C. Findings

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that Mahan Airways has repeatedly violated the EAR and the TDO, that such knowing violations have been significant, deliberate and covert, and that there is a likelihood of future violations. OEE's on-going investigation continues to reveal or discover additional attempts by Mahan to acquire items subject to the Regulations through its extensive network of agents and affiliates in third countries. Therefore, renewal of the TDO is necessary to prevent imminent violation of the EAR and to give notice to companies and individuals in the United States and abroad that they should continue to cease dealing with Mahan Airways and the other denied persons under the TDO in connection with export transactions involving items subject to the EAR.

[17] See *http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140829.aspx*. *See* 79 FR 55073 (Sep. 15, 2014). OFAC also blocked the property and property interests of Pioneer Logistics of Turkey on August 29, 2014. *Id.* Mahan Airways' use of Pioneer Logistics in an effort to evade the TDO and the Regulations was discussed in a prior renewal order, as summarized, *supra,* at 10. BIS added both Asian Aviation Logistics and Pioneer Logistics to the Entity List on December 12, 2013. *See* 78 FR 75458 (Dec. 12, 2013).

IV. Order

It is therefore ordered:

First, that MAHAN AIRWAYS, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp. Way, Tehran, Iran; PEJMAN MAHMOOD KOSARAYANIFARD A/K/A KOSARIAN FARD, P.O. Box 52404, Dubai, United Arab Emirates; MAHMOUD AMINI, G#22 Dubai Airport Free Zone, P.O. Box 393754, Dubai, United Arab Emirates, and P.O. Box 52404, Dubai, United Arab Emirates, and Mohamed Abdulla Alqaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates; KERMAN AVIATION A/K/A GIE KERMAN AVIATION, 42 Avenue Montaigne 75008, Paris, France; SIRJANCO TRADING LLC, P.O. Box 8709, Dubai, United Arab Emirates; ALI ESLAMIAN, 4th Floor, 33 Cavendish Square, London W1G0PW, United Kingdom, and 2 Bentinck Close, Prince Albert Road St. Johns Wood, London NW87RY, United Kingdom; MAHAN AIR GENERAL TRADING LLC, 19th Floor Al Moosa Tower One, Sheik Zayed Road, Dubai 40594, United Arab Emirates; SKYCO (UK) LTD., 4th Floor, 33 Cavendish Square, London, W1G 0PV, United Kingdom; EQUIPCO (UK) LTD., 2 Bentinck Close, Prince Albert Road, London, NW8 7RY, United Kingdom; and MEHDI BAHRAMI, Mahan Airways-Istanbul Office, Cumhuriye Cad. Sibil Apt No: 101 D:6, 34374 Emadad, Sisli Istanbul, Turkey; and when acting for or on their behalf, any successors or assigns, agents, or employees (each a ''Denied Person'' and collectively the ''Denied Persons'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Export Administration Regulations (''EAR''), or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a Denied Person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to a Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Sections 766.24(e) of the EAR, Mahan Airways may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022. In accordance with the provisions of Sections 766.23(c)(2) and 766.24(e)(3) of the EAR, Mahmoud Amini, Pejman Mahmood Kosarayanifard, Kerman Aviation,

Sirjanco Trading LLC, Ali Eslamian, Mahan Air General Trading LLC, Skyco (UK) Ltd., Equipco (UK) Ltd., and/or Mehdi Bahrami may, at any time, appeal their inclusion as a related person by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Mahan Airways as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Mahan Airways and each related person, and shall be published in the **Federal Register**. This Order is effective immediately and shall remain in effect for 180 days.

Dated: January 16, 2015.

David W. Mills,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2015–01215 Filed 1–22–15; 8:45 a.m.]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; International Dolphin Conservation Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 24, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Justin Greenman, (562) 980–3264 or *justin.greenman@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

National Oceanic and Atmospheric Administration (NOAA) collects information to implement the International Dolphin Conservation Program Act (Act). The Act allows entry of yellowfin tuna into the United States (U.S.), under specific conditions, from nations in the International Dolphin Conservation Program that would otherwise be under embargo. The Act also allows U.S. fishing vessels to participate in the yellowfin tuna fishery in the eastern tropical Pacific Ocean (ETP) on terms equivalent with the vessels of other nations. NOAA collects information to allow tracking and verification of ''dolphin safe'' and ''non-dolphin safe'' tuna products from catch through the U.S. market.

The regulations implementing the Act are at 50 CFR parts 216 and 300. The recordkeeping and reporting requirements at 50 CFR parts 216 and 300 form the basis for this collection of information. This collection includes permit applications, notifications, tuna tracking forms, reports, and certifications that provide information on vessel characteristics and operations in the ETP, the origin of tuna and tuna products, and certain other information necessary to implement the Act.

II. Method of Collection

Paper applications, other paper records, electronic and facsimile reports, and telephone calls are required from participants. Methods of submittal include transmission of paper forms via regular mail and facsimile as well as electronic submission via email or an FTP site (password protected).

III. Data

OMB Number: 0648–0387.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations; individuals or households.

Estimated Number of Respondents: 144.

Estimated Time per Response: 35 minutes for a vessel permit application; 10 minutes for an operator permit application, a notification of vessel arrival or departure, a change in permit operator; a notification of a net modification or a monthly tuna storage removal report; 30 minutes for a request for a waiver to transit the ETP without a permit (and subsequent radio reporting) or for a special report documenting the origin of tuna (if requested by the NOAA Administrator); 10 hours for an experimental fishing operation waiver; 15 minutes for a request for a Dolphin Mortality Limit; 35 minutes for written notification to request active status for a small tuna purse seine vessel; 5 minutes for written notification to request inactive status for a small tuna purse seine vessel or for written notification of the intent to transfer a tuna purse seine vessel to foreign registry and flag; 60 minutes for a tuna tracking form or for a monthly tuna receiving report.

Estimated Total Annual Burden Hours: 341.

Estimated Total Annual Cost to Public: $1,250.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 16, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–01060 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; User Engagement Survey for Water Resources Forecasts and Climate Information

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 24, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Edward Clark: (301) 427–9350 or *edward.clark@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

As part of the NOAA mission: ''To understand and predict changes in Earth's environment and conserve and manage coastal and marine resources to meet our Nation's economic, social, and environmental needs'', the proposed survey will be part of a stakeholder engagement effort to more clearly define what those needs are. The proposed survey will be used to engage with and assess the science and forecasting needs of stakeholders in the water resources sector. The water resources sector includes agencies and companies operating reservoirs, and private and public interests in regulating rivers. The survey is designed to (1) assess the accessibility and utility of water and climate information and data, (2) assess participants' perceptions and knowledge about water and climate, and (3) evaluate user needs and the gaps in existing water and climate information. Participation in the survey will be entirely voluntary and will usually be in conjunction with workshops related to water resources and/or climate.

II. Method of Collection

Web-based, or paper if there is no Internet access.

III. Data

OMB Control Number: 0648–0645.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Not for profit institutions; state, local, or tribal government; business or other for-profit organizations; federal government.

Estimated Number of Respondents: 90.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 45.

Estimated Total Annual Cost to Public: $100 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 16, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–01058 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–KE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; National Oceanic and Atmospheric Administration's Papahānaumokuākea Marine National Monument and University of Hawaii Research Internship Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 24, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Daniel Wagner, 808–725–5836, *Daniel.Wagner@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new collection of information. The National Oceanic and Atmospheric Administration's (NOAA's) Papahānaumokuākea Marine National Monument (PMNM) would like to collect student data and information for the purposes of selecting candidates for its research internship program in partnership with the University of Hawaii. The application package would contain: (1) A form requesting information on academic background and professional experiences, (2) reference forms in support of the internship application by two educational or professional references, and (3) a support letter from one academic professor or advisor.

II. Method of Collection

Electronic applications and electronic forms submitted via email.

III. Data

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Review: Regular submission (new information collection).

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit institutions; State, Local, or Tribal government.

Estimated Number of Annual Respondents: 20.

Estimated Time per Response: Internship application form, reference forms and support letter, 1 hour each.

Estimated Total Annual Burden Hours: 80.

Estimated Total Annual Cost to Public: $20 for copies.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 16, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–01079 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD692

Availability of the Draft NOAA Fisheries Climate Science Strategy for Public Comment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS is releasing the draft NMFS Climate Science Strategy (NCSS) for public review and comment. Additional information, including the Strategy for download may be found at: *http://www.st.nmfs.noaa.gov/ecosystems/climate/*.

DATES: Written comments must be received from January 21, 2015 through March 31, 2015.

ADDRESSES: You may submit comments on this document, identified NOAA–NMFS–2015–0010, by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0010*.
- click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: Valerie Termini, NMFS, Office of Science and Technology, 1315 East-West Highway, Silver Spring, MD 20910. Include on the envelope the following identifier ''NCSS Public Comment.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only. Please include page number and line number in your comments. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS.

FOR FURTHER INFORMATION CONTACT: Additional information, including the Strategy for download may be found at *http://www.st.nmfs.noaa.gov/ecosystems/climate/national-call-for-comments*, or by contacting Roger Griffis, Climate Change Coordinator, NMFS, Silver Spring, MD 20910, 301–427–8134 or email: *roger.b.griffis@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Summary of Report

Warming oceans, rising seas and ocean acidification are impacting the marine life off of our coasts, disrupting fisheries and local economies. These impacts are expected to increase with continued changes in the planet's climate and ocean systems. There is much at risk. For example, ocean-related fisheries generate $200 billion in sales and support 1.7 million jobs nationally each year.[1]

These current and possible future climate-related changes also affect NOAA's ability to fulfill its stewardship mandates for marine resources and the communities that depend on them. The goal of the draft Climate Science Strategy is to increase the production, delivery, and use of climate-related information to apprise and fulfill NMFS LMR stewardship mandates in a changing climate, including the Magnuson-Stevens Act, Endangered Species Act, Marine Mammal Protection Act, National Environmental Policy Act and others.

The draft Climate Science Strategy identifies seven key steps to improve the production and use of climate-related information to fulfill agency mandates and increase the resilience of marine resources and resource-dependent sectors and communities. The Strategy is designed to provide a nationally consistent framework to guide development and implementation of regional actions. The Strategy proposes specific near and medium-term recommendations, and identifies priority recommendations that are common across mandates, regions, objectives and living marine resources.

Implementation of the Strategy over the next five years is crucial for effective fulfillment of NMFS mission and mandates with changing climate and ocean conditions. Implementation of the Strategy will increase the production and delivery of climate-related information needed by NMFS and partners to reduce impacts and increase resilience of marine resources and the communities that depend on them.

NMFS works with and depends on many partners to fulfill its science and information needs from other federal agencies to academia, fisheries and other organizations. As such, we are providing this opportunity for broad public review and comment on the draft Strategy.

[1] ''Fisheries Economics of the U.S,'' NOAA Office of Science and Technology, *http://www.st.nmfs.noaa.gov/economics/publications/feus/fisheries_economics_2012.*

Dated: January 16, 2015.

Stephen K. Brown,

Acting Director, Office of Science and Technology, National Marine Fisheries Service.

[FR Doc. 2015–01168 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–729

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a meeting of the Spiny Lobster Review Panel.

DATES: The meeting will be held on Monday, February 9, 2015, from 9 a.m. Until 5 p.m.

ADDRESSES:

Meeting address: The meeting will be held at the Marriott Beachside Key West Hotel, located at 3841 North Roosevelt Boulevard, Key West, FL 33040; telephone: (305) 296–8100.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Morgan Kilgour, Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630; fax: (813) 348–1711; email: *morgan.kilgour@gulfcouncil.org.*

SUPPLEMENTARY INFORMATION: The items of discussion on the agenda are as follows:

Spiny Lobster Review Panel Agenda, Monday, February 9, 2015, 9 a.m. until 5 p.m.

1. Introductions.
2. Council charge—''If the ACT is exceeded the Councils will convene a review panel to determine if corrective action is necessary to prevent the ACL from being exceeded. Furthermore, if the catch exceeds the ACL more than once in the last four consecutive years, the entire system of ACLs and AMs would be re-evaluated as required by the National Standard 1 guidelines.''
3. Scope of work.
4. Recent spiny lobster landings.
5. Potential factors contributing to landings increase—topics for discussion:
   a. Former stock assessment summary.
   b. Economic value through time.
   i. Other factors affecting effort and catch.
   c. Stone crab landings.
   d. Types of effort, permits, and landings.
   e. Overview of Annual Catch Target/Annual Catch Limit/Overfishing Limit using different metrics.
   i. Time series analyses of ACT, ACL, and OFL.
   ii. Mean ± 1 s.d., 1.5 s.d., and 2 s.d. using the most recent 10 years data (in Amendment 10).
   iii. Mean ± 1 s.d., 1.5 s.d., and 2 s.d. from 2000–present.
   f. Other.
   i. PaV1 disease prevalence.
   ii. Genetic information.
6. Discussion and panel recommendations.
7. Other Business.

—Adjourn—

For meeting materials see folder ''Spiny Lobster Review Panel meeting Feb 2015'' on Gulf Council file server. To access the file server, the URL is *https://public.gulfcouncil.org:5001/webman/index.cgi,* or go to the Council's Web site and click on the FTP link in the lower left of the Council Web site (*http://www.gulfcouncil.org*). The username and password are both ''gulfguest''. The Agenda is subject to change.

The meeting will be webcast over the internet. A link to the webcast will be available on the Council's Web site, *http://www.gulfcouncil.org.*

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 20, 2015.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–01146 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD730

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public meetings of the Council and its Committees.

DATES: The meetings will be held Tuesday, February 10, 2015 through Thursday, February 12, 2015. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held at the Doubletree by Hilton Raleigh Brownstone-University, 1707 Hillsborough Street, Raleigh, NC 27605; telephone: (919) 828–0811.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's Web site, *www.mafmc.org* also has details on the meeting location, proposed agenda, webinar listen-in access, and briefing materials.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, however, agenda items may be addressed out of order (changes will be noted on the Council's Web site when possible.)

Tuesday, February 10, 2015

1 p.m.–3 p.m.

Research Set-Aside (Cooperative Research) Committee

—Discuss goals for a MAFMC cooperative research program and criteria for evaluating success

—Review and decide on a plan of action, including whether the following are needed: additional committee members, a Fishery

Management Action Team (FMAT), and/or an advisory panel
—Discuss workshop and potential invitees
3 p.m.
Council Convenes
3 p.m.–5:30 p.m.
Climate Change and Fisheries—Ecosystem Approach to Fisheries Management
—NOAA Fisheries Climate Science Strategy, *Roger Griffis—NMFS*
—Review Climate White Paper
—Discuss incorporation of climate change and variability into Council fishery science and management programs

Wednesday, February 11, 2015

9 a.m.
Council Convenes
9 a.m.–10:30 a.m.
Surfclam and Ocean Quahog Cost Recovery Amendment
—Review public hearing comments
—Select preferred alternatives for submission to NMFS
10:30 a.m.–11:50 a.m.
Omnibus Observer Amendment
—Review and approve document for public comment and hearings
11:50 a.m.–12 p.m.
Ricks E Savage Award
1 p.m.–5 p.m.
Deep Sea Coral Amendment
—Review public hearing comments
—Select preferred alternatives for submission to NMFS
5 p.m.–6 p.m.
Listening Session—MRIP New Effort Estimation Methodology, *Rob Andrews—NMFS*

Thursday, February 12, 2015

8 a.m.
Council Convenes
8 a.m.–8:30 a.m.
ACCSP Presentation—Recent Data Collection Improvements, *Mike Cahall—ACCSP*
8:30 a.m.–9 a.m.
Electronic Technology Implementation Plan—Update, *Dan Morris—NMFS*
9 a.m.–1 p.m.
Business Session
Organization Reports
—NMFS Greater Atlantic Regional Office
—NMFS Northeast Fisheries Science Center
—Stock Assessment Program Review and Follow-up
—NOAA Office of General Counsel
—NOAA Office of Law Enforcement
—U.S. Coast Guard
—Atlantic States Marine Fisheries Commission
Liaison Reports
—New England Council
—South Atlantic Council
Executive Director's Report, *Chris Moore*
Science Report, *Rich Seagraves*
Committee Reports
—RSA (Cooperative Research) Committee
—Continuing and New Business

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: January 20, 2015.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–01147 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD602

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Rocky Intertidal Monitoring Surveys on the South Farallon Islands, California

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the National Ocean Service's Office of National Marine Sanctuaries Gulf of the Farallones National Marine Sanctuary (GFNMS) to take marine mammals, by harassment, incidental to rocky intertidal monitoring work and searching for black abalone, components of the Sanctuary Ecosystem Assessment Surveys.

DATES: Effective January 10, 2015, through January 30, 2015.

ADDRESSES: Electronic copies of the authorization, application, and associated Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) may be obtained by writing to Jolie Harrison, Supervisor, Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking, other means of effecting the least practicable impact on the species or stock and its habitat, and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: ''Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Summary of Request

On August 18, 2014 NMFS received an application from GFNMS for the taking of marine mammals incidental to rocky intertidal monitoring work and searching for black abalone. NMFS determined that the application was adequate and complete on August 29, 2014. On December 2, 2014, we published a notice in the **Federal Register** of our proposal to issue an IHA with preliminary determinations and explained the basis for the proposal and preliminary determinations (79 FR 71388). The notice initiated a 30-day public comment period. Responses are discussed below. In November 2012, NMFS issued a 1-year IHA to GFNMS to take marine mammals incidental to these same proposed activities (77 FR 68107, November 15, 2012). That IHA expired on November 7, 2013. However, GFNMS did not conduct any abalone sampling during this time period. Therefore, no take occurred.

GFNMS proposes to continue rocky intertidal monitoring work and the search for black abalone in areas previously unexplored for black abalone from January 16 through January 23, 2015. All work will be done only during daylight minus low tides. This is a long-term study that began in 1992. This IHA is effective from January 10 through January 30, 2015 to allow for a bit of flexibility in the sampling schedule. Twelve sites are proposed for sampling. The following specific aspects of the activities are likely to result in the take of marine mammals: Presence of survey personnel near pinniped haulout sites and approach of survey personnel towards hauled out pinnipeds. Take, by Level B harassment only, of individuals of five species of marine mammals is anticipated to result from the specified activity.

Description of the Specified Activity and Specified Geographic Region

Since the listing of black abalone as ''endangered'' under the U.S. Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*), NMFS has requested that GFNMS explore as much of the shoreline as possible, as well as document and map the location of quality habitat for black abalone and the location of known animals. This listing prompted the need to expand the search for black abalone into other areas on the South Farallon Islands (beyond those that have been studied since 1992) to gain a better understanding of the abundance and health of the black abalone population in this remote and isolated location. The monitoring is planned to remain ongoing, and efforts to assess the status and health of the black abalone population on the South Farallon Islands may take several years, and perhaps decades, because black abalone tend to be very cryptic and difficult to find, especially when they are sparse and infrequent in occurrence. In order for the assessment of black abalone to be more comprehensive, GFNMS needs to expand shore searches in areas beyond the proximity of their quantitative quadrat sampling areas and also into new areas on Southeast Farallon and Maintop (West End) Islands. Additional information can be found in the IHA application (see **ADDRESSES**) and the Notice of Proposed IHA (79 FR 71388, December 2, 2014).

Routine shore activity will continue to involve the use of only non-destructive sampling methods to monitor rocky intertidal algal and invertebrate species abundances (see Figure 2 in GFNMS' application). The sampling, photographic documentation, and shore walks for the period of this IHA have been scheduled to occur from January 16 through January 23, 2015. Each survey will last for approximately 4 to 8 days. All work will be done only during daylight minus, low tides. Each location (as listed in Tables 2 and 3 in GFNMS' application) will be visited/sampled by five to six biologists, for a duration of 4–5 hours, one to two times each minus tide cycle. The Notice of Proposed IHA contains additional information on the survey methodology (79 FR 71388, December 2, 2014). That information has not changed and is therefore not repeated here.

Point Blue (formerly named PRBO Conservation Science) continues its year round pinniped and seabird research and monitoring efforts on the South Farallon Islands, which began in 1968, under MMPA scientific research permits and IHAs. GFNMS biologists will gain access to the sites via boats operated by Point Blue, with disturbance and incidental take authorized via IHAs issued to Point Blue. For this reason, GFNMS has not requested authorization for take from disturbance by boat, as incidental take from that activity is authorized in a separate IHA.

Specified Geographic Location and Activity Timeframe

The Farallon Islands consists of a chain of seven islands located approximately 48 km (30 mi) west of San Francisco, near the edge of the continental shelf and in the geographic center of the GFNMS (see Figure 1 in GFNMS' application). The land of the islands above the mean high tide mark is designated as the Farallon National Wildlife Refuge (managed by the U.S. Fish and Wildlife Service [USFWS]), while the shore and subtidal below are in GFNMS. The nearshore and offshore waters are foraging areas for pinniped species discussed in this document.

The two largest islands of the seven islands are the Southeast Farallon and Maintop (aka West End) Islands. These and several smaller rocks are collectively referred to as the South Farallon Islands and are the subject of this IHA request. The two largest islands are separated by only a 9 m (30 ft) wide surge channel. Together, these islands are approximately 49 hectares (120 acres) in size with an intertidal perimeter around both islands of 7.7 km (4.8 mi).

The areas proposed for sampling are: Blow Hole Peninsula; Mussel Flat; Dead Sea Lion Flat; Low Arch; Raven's Cliff; Drunk Uncle Islet; East Landing; North Landing; Fisherman's Bay; Weather Service Peninsula; Indian Head; and Shell Beach (see Figure 2 in GFNMS' application). Each sample site will be visited one to two times each minus tide cycle for 4–5 hours each visit.

The shorelines on these islands, including areas above the mean high tide elevation, have become more heavily used over time as haulout sites for pinnipeds to rest, give birth, and molt. The intertidal zones where GFNMS conducts intertidal monitoring area also areas where pinnipeds can be found hauled out on the shore. Accessing portions of the intertidal habitat may cause incidental Level B (behavioral) harassment of pinnipeds through some unavoidable approaches if pinnipeds are hauled out directly in the study plots or while biologists walk from one location to another. No motorized equipment is involved in conducting these surveys. The species for which Level B harassment is authorized are: California sea lions (*Zalophus californianus californianus*); harbor seals (*Phoca vitulina richardii*); northern elephant seals (*Mirounga angustirostris*); Stellar sea lions (*Eumetopias jubatus*); and northern fur seals (*Callorhinus ursinus*).

Comments and Responses

A Notice of Proposed IHA was published in the **Federal Register** on December 2, 2014 (79 FR 71388) for public comment. During the 30-day public comment period, NMFS received one letter from the Marine Mammal Commission. No other organizations provided comments on the proposed issuance of an IHA for this activity. The Marine Mammal Commission recommended that NMFS issue the IHA, subject to the inclusion of the proposed mitigation and monitoring measures. NMFS has included all of the mitigation and monitoring measures in the Notice of Proposed IHA (79 FR 71388, December 2, 2014) in the issued IHA.

Description of Marine Mammals in the Area of the Specified Activity

Many of the shores of the two South Farallon Islands provide resting, molting, and breeding habitat for pinniped species: Northern elephant seals; harbor seals; California sea lions; northern fur seals; and Steller sea lions. California sea lion is the species anticipated to be encountered most frequently during the specified activity. The other four species are only anticipated to be encountered at some of the sites. Tables 2 and 3 in GFNMS' application outline the average and maximum expected occurrences of each species at each sampling location, respectively. Numbers in these tables are based on weekly surveys conducted by PRBO (now Point Blue) in January 2012 and 2013. Figures contained in Appendix I of GFNMS' application depict the overlap between pinniped haulouts and abalone sampling sites. None of the species noted here are listed as threatened and endangered under the ESA. On November 4, 2013, NMFS published a final rule delisting the eastern distinct population segment (DPS) of Steller sea lions (78 FR 66139). We have determined that this DPS has recovered and no longer meets the definition of an endangered or threatened species under the ESA. The Steller sea lions on the South Farallon Islands are part of the eastern DPS.

We refer the public to Carretta *et al.* (2014) and Allen and Angliss (2014) for general information on these species which are presented below this section. The publications are available on the internet at: *http://www.nmfs.noaa.gov/pr/sars/pdf/pacific2013_final.pdf* and *http://www.nmfs.noaa.gov/pr/sars/pdf/ak2013_final.pdf.* Additional information on the status, distribution, seasonal distribution, and life history can also be found in GFNMS' application and NMFS' Notice of Proposed IHA (79 FR 71388, December 2, 2014). The information has not changed and is therefore not repeated here.

California (southern) sea otters (*Enhydra lutris nereis*), listed as threatened under the ESA and categorized as depleted under the MMPA, usually range in coastal waters within 2 km (1.2 mi) of shore. PRBO has not encountered California sea otters on Southeast Farallon Island during the course of seabird or pinniped research activities over the past five years. This species is managed by the USFWS and is not considered further in this notice.

Potential Effects of the Specified Activity on Marine Mammals

The appearance of researchers may have the potential to cause Level B harassment of any pinnipeds hauled out on Southeast Farallon and Maintop (West End) Islands. Although marine mammals are never deliberately approached by abalone survey personnel, approach may be unavoidable if pinnipeds are hauled out in the immediate vicinity of the permanent abalone study plots. Disturbance may result in reactions ranging from an animal simply becoming alert to the presence of researchers (*e.g.,* turning the head, assuming a more upright posture) to flushing from the haul-out site into the water. NMFS does not consider the lesser reactions to constitute behavioral harassment, or Level B harassment takes, but rather assumes that pinnipeds that move greater than 1 m (3.3 ft) or change the speed or direction of their movement in response to the presence of researchers are behaviorally harassed, and thus subject to Level B taking. Animals that respond to the presence of researchers by becoming alert, but do not move or change the nature of locomotion as described, are not considered to have been subject to behavioral harassment. NMFS' Notice of Proposed IHA (79 FR 71388, December 2, 2014) contains information regarding potential impacts to marine mammals from the specified activity. The information has not changed and is therefore not repeated here.

Typically, even those reactions constituting Level B harassment would result at most in temporary, short-term disturbance. Researchers will visit approximately 12 sites over about an 8 day period. Each site visit typically lasts 4–5 hours. Therefore, disturbance of pinnipeds resulting from the presence of researchers lasts only for short periods of time. Because such disturbance is sporadic, rather than chronic, and of low intensity, individual marine mammals are unlikely to incur any detrimental impacts to vital rates or ability to forage and, thus, loss of fitness. Correspondingly, even local populations, much less the overall stocks of animals, are extremely unlikely to accrue any significantly detrimental impacts.

NMFS does not anticipate that the activities would result in the injury, serious injury, or mortality of pinnipeds because (1) the timing of research visits would preclude separation of mothers and pups for four of the pinniped species, as activities occur outside of the pupping/breeding season and (2) elephant seals are generally not susceptible to disturbance as a result of researchers' presence. In addition, researchers will exercise appropriate caution approaching sites, especially when pups are present and will redirect activities when pups are present.

Anticipated Effects on Marine Mammal Habitat

The only habitat modification associated with the proposed activity is the quadrat locations being marked with marine epoxy. The plot corners are marked with a 3x3 cm (1.2x1.2 in) patch of marine epoxy glued to the benchrock for relocating the quadrat sites. Markers have been in place since 1993, and pinniped populations have increased throughout the islands during this time. Maintenance is sometimes required, which consists of replenishing worn markers with fresh epoxy or replacing markers that have become dislodged. No gas power tools are used, so there is no potential for noise or accidental fuel spills disturbing animals and impacting habitats. Thus, the activity is not expected to have any habitat-related effects, including to marine mammal prey species, that could cause significant or long-term consequences for individual marine mammals or their populations.

Mitigation

In order to issue an incidental take authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must, where applicable, set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

GFNMS shall implement several mitigation measures to reduce potential take by Level B (behavioral disturbance)

harassment. Measures include: (1) Coordinating sampling efforts with other permitted activities (*i.e.,* Point Blue and USFWS); (2) conducting slow movements and staying close to the ground to prevent or minimize stampeding; (3) avoiding loud noises (*i.e.,* using hushed voices); (4) vacating the area as soon as sampling of the site is completed; (5) monitoring the offshore area for predators (such as killer whales and white sharks) and avoid flushing of pinnipeds when predators are observed in nearshore waters; (6) using binoculars to detect pinnipeds before close approach to avoid being seen by animals; and (7) rescheduling work at sites where pups other than elephant seal pups are present, unless other means to accomplishing the work can be done without causing disturbance to mothers and dependent pups.

The methodologies and actions noted in this section will be utilized and included as mitigation measures in the IHA to ensure that impacts to marine mammals are mitigated to the lowest level practicable. The primary method of mitigating the risk of disturbance to pinnipeds, which will be in use at all times, is the selection of judicious routes of approach to abalone study sites, avoiding close contact with pinnipeds hauled out on shore, and the use of extreme caution upon approach. In no case will marine mammals be deliberately approached by abalone survey personnel, and in all cases every possible measure will be taken to select a pathway of approach to study sites that minimizes the number of marine mammals potentially harassed. In general, researchers will stay inshore of pinnipeds whenever possible to allow maximum escape to the ocean. Each visit to a given study site will last for approximately 4–5 hours, after which the site is vacated and can be re-occupied by any marine mammals that may have been disturbed by the presence of abalone researchers. By arriving before low tide, worker presence will tend to encourage pinnipeds to move to other areas for the day before they haul out and settle onto rocks at low tide.

The following measures are required to avoid disturbances to elephant seal pups. Disturbances to females with dependent pups can be mitigated to the greatest extent practicable by avoiding visits to those intertidal sites with pinnipeds that are actively nursing, with the exception of northern elephant seals. The time of year when GFNMS plans to sample avoids disturbance to young, dependent pups, with the exception of northern elephant seals. Thus, late January/early February, at minimum, is preferable for the proposed intertidal survey work in order to minimize the risk of harassment. Harassment of nursing northern elephant seal pups may occur but only to a limited extent. Disruption of nursing to northern elephant seal pups will occur only as biologists pass by the area. No flushing on nursing northern elephant seal pups will occur, and no disturbance to newborn northern elephant seals (pups less than one week old) will occur. Moreover, elephant seals have a much higher tolerance of nearby human activity than sea lions or harbor seals. In the event of finding pinnipeds, other than elephant seals, breeding and nursing, the intertidal monitoring activities will be re-directed to sites where these activities and behaviors are not occurring. This mitigation measure will reduce the possibility of takes by harassment and further reduce the remote possibility of serious injury or mortality of dependent pups.

NMFS has carefully evaluated GFNMS' mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Based on our evaluation of the applicant's final measures, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must, where applicable, set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Currently many aspects of pinniped research are being conducted by Point Blue scientists on the Farallon Islands, which includes elephant seal pup tagging and behavior observations with special notice to tagged animals. Additional observations are always desired, such as observations of pinniped carcasses bearing tags, as well as any rare or unusual marine mammal occurrences. GFNMS' observations and reporting will add to the observational database and on-going marine mammal assessments on the Farallon Islands.

GFNMS can add to the knowledge of pinnipeds on the South Farallon Islands by noting observations of: (1) Unusual behaviors, numbers, or distributions of pinnipeds, such that any potential follow-up research can be conducted by the appropriate personnel; (2) tag-bearing carcasses of pinnipeds, allowing transmittal of the information to appropriate agencies and personnel; and (3) rare or unusual species of marine mammals for agency follow-up.

Monitoring requirements in relation to GFNMS' abalone research surveys will include observations made by the applicant. Information recorded will include species counts (with numbers of pups/juveniles), numbers of observed disturbances, and descriptions of the disturbance behaviors during the abalone surveys. Observations of unusual behaviors, numbers, or distributions of pinnipeds on the South Farallon Islands will be reported to NMFS and Point Blue so that any potential follow-up observations can be conducted by the appropriate personnel. In addition, observations of tag-bearing pinniped carcasses as well as any rare or unusual species of marine mammals will be reported to NMFS and Point Blue.

If at any time injury, serious injury, or mortality of the species for which take is authorized should occur, or if take of any kind of any other marine mammal occurs, and such action may be a result of the abalone research, GFNMS will suspend research activities and contact NMFS immediately to determine how best to proceed to ensure that another injury or death does not occur and to ensure that the applicant remains in compliance with the MMPA.

A draft final report must be submitted to NMFS Office of Protected Resources within 60 days after the conclusion of the 2014 field season or 60 days prior to the start of the next field season if a

new IHA will be requested. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the IHA. A final report must be submitted to the Director of the NMFS Office of Protected Resources and to the NMFS Southwest Office Regional Administrator within 30 days after receiving comments from NMFS on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

All anticipated takes would be by Level B harassment, involving temporary changes in behavior. The mitigation and monitoring measures are expected to minimize the possibility of injurious or lethal takes such that take by injury, serious injury, or mortality is considered remote. Animals hauled out close to the actual survey sites may be disturbed by the presence of biologists and may alter their behavior or attempt to move away from the researchers. No motorized equipment is involved in conducting the abalone monitoring surveys.

As discussed earlier, NMFS considers an animal to have been harassed if it moved greater than 1 m (3.3 ft) in response to the researcher's presence or if the animal was already moving and changed direction and/or speed, or if the animal flushed into the water. Animals that became alert without such movements were not considered harassed. The distribution of pinnipeds hauled out on beaches is not consistent throughout the year. The number of marine mammals disturbed will vary by month and location. PRBO (now Point Blue) obtains weekly counts of pinnipeds on the South Farallon Islands, dating back to the early 1970s. GFNMS used data collected by PRBO in February 2012 and 2013 to estimate the number of pinnipeds that may potentially be taken by Level B (behavioral) harassment. Table 3 in GFNMS' IHA application and Table 1 here present the maximum numbers of California sea lions, harbor seals, northern elephant seals, northern fur seals, and Steller sea lions that may be present at the various sampling sites during the activity timeframe under this IHA. Based on this information, NMFS has authorized the take, by Level B harassment only, of 7,126 California sea lions, 119 harbor seals, 66 northern elephant seals, 124 northern fur seals, and 112 Steller sea lions. These numbers are considered to be maximum take estimates; therefore, actual take may be slightly less if animals decide to haul out at a different location for the day or animals are out foraging at the time of the survey activities.

Negligible Impact and Small Numbers Analysis and Determinations

NMFS typically includes our negligible impact and small numbers analyses and determinations under the same section heading of our **Federal Register** notices. Despite co-locating these terms, we acknowledge that negligible impact and small numbers are distinct standards under the MMPA and treat them as such. The analyses presented below do not conflate the two standards; instead, each standard has been considered independently, and we have applied the relevant factors to inform our negligible impact and small numbers determinations.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as '' . . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, NMFS considers a variety of factors, including but not limited to: (1) The number of anticipated mortalities; (2) the number and nature of anticipated injuries; (3) the number, nature, intensity, and duration of Level B harassment; and (4) the context in which the take occurs.

No injuries or mortalities are anticipated to occur as a result of GFNMS' rocky intertidal monitoring work and searching for black abalone, and none are authorized. The behavioral harassments that could occur would be of limited duration, as researchers will only conduct sampling over a period of 8 days. Additionally, each site is sampled for approximately 4–5 hours before moving to the next sampling site. Therefore, disturbance will be limited to a short duration, allowing pinnipeds to reoccupy the sites within a short amount of time.

Some of the pinniped species use the islands to conduct pupping and/or breeding. However, with the exception of northern elephant seals, GFNMS will conduct its abalone site sampling outside of the pupping/breeding seasons. GFNMS will implement measures to minimize impacts to northern elephant seals nursing or tending to dependent pups. Such measures will avoid mother/pup separation or trampling of pups.

None of the five marine mammal species anticipated to occur in the activity area are listed as threatened or endangered under the ESA. Table 2 in this document presents the abundance of each species or stock, the authorized take estimates, and the percentage of the affected populations or stocks that may be taken by harassment. Based on these estimates, GFNMS would take less than 1% of each species or stock, with the exception of the California sea lion, which would result in an estimated take of 2.4% of the stock. Because these are maximum estimates, actual take numbers are likely to be lower, as some animals may select other haulout sites the day the researchers are present.

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Table 1. Estimated number of animals to be disturbed at each sampling site during from January 16 through January 23, 2015 based on maximum daily counts of pinnipeds estimated from PRBO monitoring data and the total proposed number of Level B harassment takes to be authorized for each species.

	East Landing & Blowhole Peninsula	North Landing & Fisherman's Bay	Dead Sea Lion Flat	Mussel Flat	Low Arch	Weather Service Peninsula	Raven's Cliff	Indian Head	Shell Beach	Drunk Uncle Islet & Pelican Bowl	
CA Sea Lion January 2012	0	497	539	941	620	250	871	1153	1655	600	
CA Sea Lion January 2013	0	251	464	192	569	153	220	675	732	169	
Maximum	0	497	539	941	620	250	871	1153	1655	600	7126
Harbor Seal January 2012	8	6	0	38	0	0	0	0	0	0	
Harbor Seal January 2013	14	20	10	73	0	2	0	0	0	0	
Maximum	14	20	10	73	0	2	0	0	0	0	119
N. Elephant Seal January 2012	0	4	0	2	29	0	0	15	7	0	
N. Elephant Seal January 2013	0	4	4	7	25	0	0	8	0	0	
Maximum	0	4	4	7	29	0	0	15	7	0	66
N. Fur Seal January 2012	0	0	0	0	0	0	0	62	0	0	
N. Fur Seal January 2013	0	0	0	0	0	0	0	20	0	0	
Maximum	0	0	0	0	0	0	0	62	0	0	124*
Steller Sea Lion January 2012	0	0	8	2	0	0	8	17	23	0	
Steller Sea Lion January 2013	0	2	30	13	1	0	2	35	17	0	
Maximum	0	2	30	13	1	0	8	35	23	0	112
										MAXIMUM TOTAL	7547

*A high but undetermined population growth rate for northern fur seals on the South Farallon Islands is anticipated. Therefore, the maximum total for fur seals has been doubled.

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Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS finds that the rocky intertidal monitoring program will result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking from the rocky intertidal monitoring program will have a negligible impact on the affected species or stocks.

TABLE 2—POPULATION ABUNDANCE ESTIMATES, TOTAL PROPOSED LEVEL B TAKE, AND PERCENTAGE OF POPULATION THAT MAY BE TAKEN FOR THE POTENTIALLY AFFECTED SPECIES DURING THE PROPOSED ROCKY INTERTIDAL MONITORING PROGRAM

Species	Abundance *	Total proposed Level B take	Percentage of stock or population
Harbor Seal	30,196	119	0.4
California Sea Lion	296,750	7,126	2.4
Northern Elephant Seal	124,000	66	0.05
Steller Sea Lion	63,160 to 78,198	112	0.1–0.2
Northern Fur Seal	12,844	*124	0.01

*Abundance estimates are taken from the 2013 U.S. Pacific Marine Mammal Stock Assessments (Carretta *et al.,* 2014) and 2013 Alaska Marine Mammal Stock Assessments (Allen and Anglis, 2014).

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

None of the marine mammals for which incidental take is proposed are listed as threatened or endangered under the ESA. Therefore, NMFS has determined that issuance of the IHA to GFNMS under section 101(a)(5)(D) of the MMPA will have no effect on species listed as threatened or endangered under the ESA.

National Environmental Policy Act (NEPA)

In 2012, we prepared an EA analyzing the potential effects to the human environment from conducting rocky intertidal surveys along the California and Oregon coasts and issued a FONSI on the issuance of an IHA for GFNMS' rocky intertidal surveys in accordance with section 6.01 of the NOAA Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999). GFNMS' proposed activities and impacts for 2015 are within the scope of our 2012 EA and FONSI. We have reviewed the 2012 EA and determined that there are no new direct, indirect, or cumulative impacts to the human and natural environment associated with the IHA requiring evaluation in a supplemental EA and we, therefore, reaffirm the 2012 FONSI.

Authorization

As a result of these determinations, NMFS has authorized the take of marine mammals incidental to GFNMS' rocky intertidal and black abalone monitoring research activities, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: January 15, 2015.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–01154 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD660

Takes of Marine Mammals Incidental to Specified Activities; Seabird Research Activities in Central California, 2015–2016; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental harassment authorization; correction.

SUMMARY: NMFS published a notice in the **Federal Register** on December 23, 2014, concerning an application from Point Blue Conservation Science (Point Blue) requesting an Incidental Harassment Authorization (Authorization) to take marine mammals, by harassment, incidental to conducting proposed seabird research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore in central California from January 2015 through January 2016. The December 23, 2014 notice did not contain an ending date for the public comment period. This notice correctly identifies the end of the public comment period as January 23, 2015.

DATES: Comments must be received by January 23, 2015.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, Office of Protected Resources, NMFS (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of December 23, 2014, FR Doc. 2014–29991, on page 76975, in the second column, the **DATES** section was omitted and this correction has added it to inform the public of the comment end date.

Dated: January 12, 2015.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–01136 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–C–2014–0074]

National Medal of Technology and Innovation Call for 2015 Nominations

AGENCY: United States Patent and Trademark Office.

ACTION: Notice and request for nominations.

SUMMARY: The Department of Commerce (United States Patent and Trademark Office) is accepting nominations for the National Medal of Technology and Innovation (NMTI). Since establishment by Congress in the Stevenson-Wydler Technology Innovation Act of 1980, the President of the United States has awarded the annual National Medal of Technology and Innovation (initially known as the National Medal of Technology) to our nation's leading innovators. If you know of a candidate who has made an outstanding contribution to the country's economic, environmental, or social well-being through the promotion of technology, technological innovation, or the development of technological manpower, you may obtain a nomination form from: *http://www.uspto.gov/about/nmti/index.jsp.*

ADDRESSES: The NMTI nomination form for the year 2015 may be obtained by visiting the USPTO Web site at *http://www.uspto.gov/about/nmti/index.jsp.* Nomination applications should be submitted to John Palafoutas, Program Manager, National Medal of Technology and Innovation Program, by electronic mail to *NMTI@uspto.gov* or by postal mail to: John Palafoutas, NMTI Program Manager, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450.

DATES: The deadline for submission of a nomination is June 1, 2015.

FOR FURTHER INFORMATION CONTACT: John Palafoutas, Program Manager, National Medal of Technology and Innovation Program, United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22314; by telephone: (571) 272–9821 or by electronic mail: *nmti@uspto.gov.*

SUPPLEMENTARY INFORMATION:

Background

As provided by Congress in the Stevenson-Wydler Technology Innovation Act of 1980, the National Medal of Technology was first awarded in 1985. On August 9, 2007, the President signed the America COMPETES (Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science) Act of 2007. The Act amended Section 16 of the Stevenson-Wydler Technology Innovation Act of 1980, changing the name of the Medal to the ''National Medal of Technology and Innovation.'' The NMTI is the highest honor awarded by the President of the United States to America's leading innovators in the

field of technology and is given annually to individuals, teams, or companies/non-profits who have made outstanding contributions to the promotion of technology or technological innovation, or to the development of technological manpower, for the improvement of the economic, environmental, or social well-being of the United States. The primary purpose of the NMTI is to recognize American innovators whose vision, creativity, and brilliance in moving ideas to market or in developing the nation's technological manpower has had a profound and significant impact on our economy and way of life. The NMTI highlights the national importance of fostering technological innovation based upon solid science, resulting in commercially successful products and services.

Eligibility and Nomination Criteria

Nomination Guidelines containing information on eligibility and nomination criteria are available at *http://www.uspto.gov/about/nmti/guidelines.jsp.*

Dated: December 18, 2014.

Michelle K. Lee,

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

[FR Doc. 2015–01123 Filed 1–22–15; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0072 Registration of Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on requirements relating to the registration process for swap dealers and major swap participants.

DATES: Comments must be submitted on or before March 24, 2015.

ADDRESSES: You may submit comments, identified by ''Renewal of Collection Pertaining to Registration of Swap Dealers and Major Swap Participants'' by any of the following methods:

- The Agency's Web site, at *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments through the Portal.

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Christopher Cummings, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 1125 21st Street NW., Washington, DC 20581; (202) 418–6700; email: *ccummings@cftc.gov,* and refer to OMB Control No. 3038–0072.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (''OMB'') for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

Title: Registration of Swap Dealers and Major Swap Participants (OMB Control No. 3038–0072). This is a request for extension of a currently approved information collection.

Abstract: Pursuant to Section 731 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010) (''Dodd-Frank Act''), the Commission promulgated regulations setting forth the procedure whereby persons required by the Dodd-Frank Act to register with the Commission as Swap Dealers or Major Swap Participants may do so.

With respect to the collection of information, the Commission invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission estimates that the total annual respondent burden for this collection is 629 hours:

Form 7–R.

Respondents/Affected Entities: Swap dealers and major swap participants.

Estimated number of respondents: 125.

Estimated burden per response: 1 hour.

[1] 17 CFR 145.9.

Estimated total annual burden on respondents: 125 hours.

Frequency of collection: On occasion and annually.

Form 8–R.

Respondents/Affected Entities: 5 principals per each of 125 swap dealers and major swap participants.

Estimated number of respondents: 625.

Estimated burden per response: 0.8 hour.

Estimated total annual burden on respondents: 500 hours.

Frequency of collection: On occasion.

Form 8–T.

Respondents/Affected Entities: 1 principal per each of 20 swap dealers and major swap participants.

Estimated number of respondents: 20.

Estimated burden per response: 0.2 hour.

Estimated total annual burden on respondents: 4 hours.

Frequency of collection: On occasion.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: January 16, 2015.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2015–01105 Filed 1–22–15; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Acquisition University Board of Visitors; Notice of Federal Advisory Committee Meeting; Cancellation

AGENCY: Defense Acquisition University, DoD.

ACTION: Meeting notice; cancellation.

SUMMARY: On Tuesday, January 13, 2015 (80 FR 1627–1628), the Department of Defense published a notice announcing a meeting of the Defense Acquisition University Board of Visitors. The Department of Defense is publishing this notice to announce the cancellation of this meeting, which was scheduled for Wednesday, January 28, 2015, from 9:00 a.m. to 12:00 p.m.

DATES: The meeting scheduled for Wednesday, January 28, 2015, from 9:00 a.m. to 12:00 p.m. has been cancelled.

FOR FURTHER INFORMATION CONTACT: Caren Hergenroeder, Protocol Director, DAU. Phone: 703–805–5134. Fax: 703–805–5940. Email: *caren.hergenroeder@dau.mil.*

SUPPLEMENTARY INFORMATION: Due to difficulties beyond the control of the Department of Defense, the Designated Federal Officer was unable to submit the **Federal Register** notice pertaining to cancelling the Defense Acquisition University Board of Visitors' meeting, scheduled for January 28, 2015, that ensured compliance with the requirements of 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, waives the 15-calendar day notification requirement pursuant to 41 CFR 102–3.150(b).

Dated: January 20, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–01134 Filed 1–22–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, U.S. Army Corps of Engineers

Notice of Intent To Prepare an Environmental Assessment and Conduct Public Scoping Meeting for the Crescent City Harbor Dredged Material Management Plan, City of Crescent and County of Del Norte, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The purpose of this notice is to initiate the scoping process for the preparation of a Dredged Material Management Plan (DMMP) and Environmental Assessment for continued maintenance dredging at Crescent City Harbor. The goal of the plan will be to identify suitable sites for placement of dredged material to accommodate maintenance dredging over the next twenty years.

DATES: A public scoping meeting will be held on February 11, 2015 at 7:00 p.m. (PST). Submit comments concerning this notice on or before February 26, 2015.

ADDRESSES: The scoping meeting location is the Meeting Room at the Crescent City Harbor District Office, 101 Citizens Dock Road, Crescent City, California 95531. Mail written comments concerning this notice to: U.S. Army Corps of Engineers, San Francisco District, Project Management Division, ATTN: 1455 Market Street, San Francisco, CA 94103–1398. Comment letters should include the commenter's physical mailing address and the project title in the subject line.

FOR FURTHER INFORMATION CONTACT: Mark Wiechmann, U.S. Army Corps of Engineers, San Francisco District, Environmental Resources, 1455 Market Street, San Francisco CA 94103–1398, (415) 503–6846, *mark.j.wiechmann@usace.army.mil.*

SUPPLEMENTARY INFORMATION: In accordance with the National Environmental Policy Act (NEPA), the Corps intends to prepare a Dredged Material Management Plan (DMMP) and accompanying Environmental Assessment (EA). The primary Federal actions under consideration are dredging, dredged material placement, and transport of dredged material for the purpose of ocean placement and/or upland beneficial reuse. The Crescent City Harbor District is the Non-Federal Sponsor (NFS). The Draft DMMP is intended to be sufficient in scope to address the Federal, state and local requirements and environmental issues concerning the proposed activities and permit approvals.

Project Site and Background Information: Crescent City Harbor is located on the Northern California coast about 280 nautical miles north of San Francisco and about 17 miles south of the Oregon border. The harbor is located on the south edge of a broad marine terrace bordered on the south and west by the Pacific Ocean and on the north and east by densely forested coastal mountains. Crescent City Harbor is a shallow-draft critical harbor of refuge, supporting a U.S. Coast Guard search and rescue station, commercial and sport fishing, waterfront industry, and recreational boating.

The harbor's naturally crescent-shaped beach is bound by a 4,700-foot long rubble-mound outer breakwater to the west, a 2,400-foot long sand barrier to the east, and a 1,600-foot rubble-mound inner breakwater to the south. The harbor's opening faces south and is about 2,000 feet across.

There are currently three federally constructed and maintained navigation channels at Crescent City Harbor. The Inner Harbor Basin Channel extends for 2,200 feet along the inside and around the tip of the inner breakwater, where it connects to the Entrance Channel, a 200 foot wide channel that extends 2,200 feet to the outer breakwater. The Marina Access Channel is 140–210 feet wide and extends 1,200 feet from the Inner Harbor Basin Channel to the small boat basin.

The Entrance Channel has a project depth of 20 feet mean lower low water (MLLW) while the interior channels, Inner Harbor Basin and Marina Access, have a project depth of 15 feet MLLW.

Proposed Action(S): This study report will: (1) verify that continued federal maintenance is justified; and (2) present a viable 20-year plan for dredging and disposal of materials associated with

Crescent City Harbors' continued operations and maintenance work.

Four previously used disposal sites: SF–1, Crescent City Harbor Dredge Ponds, Beach Nourishment at Whaler Island and Humboldt Ocean Disposal Site (HOODS); and four previously unused disposal sites: SFDODS, Chetco River Disposal Site (Chetco), an Offshore Berm area and a potential Crescent City Harbor Waterfront Development Plan site will be evaluated. Figure 1 displays the eight sites being considered.

Issues: Potentially significant issues associated with the project may include: aesthetics/visual impacts, air quality emissions, biological resource impacts, environmental justice, geologic impacts related to seismicity, hazards and hazardous materials, hydrology and water quality, noise, traffic and transportation, and cumulative impacts from past, present and reasonably foreseeable future projects.

Scoping Process: The U.S. Army Corps of Engineers is seeking participation and input of all interested federal, state, and local agencies, Native American groups, and other concerned private organizations or individuals on the scope of the draft DMMP and EA through this public notice. The purpose of the public scoping meeting is to solicit comments regarding the potential impacts, environmental issues, and alternative placement sites associated with the proposed action to be considered in the study report. The meeting place, date and time will be advertised in advance in local newspapers, and meeting announcement letters will be sent to interested parties. The final draft DMMP is expected to be available for public review and comment in the summer of 2015 and a public meeting will be held after its publication.

John C. Morrow,

Lieutenant Colonel, US Army, District Engineer.

[FR Doc. 2015–01030 Filed 1–22–15; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Availability of the Draft Environmental Impact Statement (DEIS) for the Installation of a Terminal Groin Structure at the Eastern End of Ocean Isle Beach, Extending Into the Atlantic Ocean, West of Shallotte Inlet (Brunswick County, NC)

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (USACE), Wilmington District, Wilmington Regulatory Field Office has received a request for Department of the Army authorization, pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbor Act, from the Town of Ocean Isle Beach to install a terminal groin structure on the east side of Ocean Isle Beach, extending into the Atlantic Ocean, just west of Shallotte Inlet. The structure will be designed to function in concert with the Federal storm damage reduction project.

DATES: The public is invited to attend, and/or comment at, a public hearing to be held at Union Elementary School, 180 Union School Rd., NW., Shallotte, NC 28459, on February 24, at 6:00 p.m. Written comments on the DEIS will be received until 5 p.m., March 9, 2015.

ADDRESSES: Copies of comments and questions regarding the DEIS may be submitted to: U.S. Army Corps of Engineers (Corps), Wilmington District, Regulatory Division, c/o Mr. Tyler Crumbley. ATTN: File Number SAW–2011–01241, 69 Darlington Avenue, Wilmington, NC 28403.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be directed to Mr. Tyler Crumbley, Wilmington Regulatory Field Office, telephone: (910) 251–4170, facsimile (910) 251–4025, or email at *tyler.crumbley@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. *Project Description.* The Town of Ocean Isle Beach is seeking Federal and State authorization for construction of a terminal groin, and associated beach fillet with required maintenance, to be located at the eastern end of Ocean Isle Beach. The proposed terminal groin and beach fillet is the Town's preferred alternative (#5) of five alternatives considered in this document. Under the preferred alternative, the terminal groin would have a seaward section extending 750-feet seaward of the April 2007 mean high water shoreline and a 300-foot shore anchorage section extending landward of the April 2007 mean high water shoreline. The seaward section would be constructed with loosely placed armor stone to facilitate the movement of sand past the structure. The shore anchorage section would be constructed with sheet pile which would have a top elevation varying from +4.9 feet NAVD to +4.5 feet NAVD.

The proposed terminal groin is one of four such structures approved by the General Assembly to be constructed in North Carolina following passing of Senate Bill (SB) 110. The U.S. Army Corps of Engineers (USACE) determined that there is sufficient information to conclude that the project would result in significant adverse impact on the human environment, and has prepared a DEIS pursuant to the National Environmental Policy Act (NEPA) to evaluate the environmental effects of the alternatives considering the project's purpose and need. The purpose and need of the proposed terminal groin and beach fillet is to provide shoreline protection that would mitigate chronic erosion on the eastern portion on the Town's oceanfront shoreline so as to preserve the integrity of its infrastructure, provide protection to existing development, and ensure the continued use of the oceanfront beach along this area.

2. *Issues.* There are several potential environmental and public interest issues that are addressed in the DEIS. Public interest issues include, but are not limited to, the following: Public safety, aesthetics, recreation, navigation, infrastructure, solid waste, economics, and noise pollution. Additional issues may be identified during the public review process. Issues initially identified as potentially significant include:

a. Potential impacts to marine biological resources (benthic organisms, passageway for fish and other marine life) and Essential Fish Habitat.

b. Potential impacts to threatened and endangered marine mammals, reptiles, birds, fish, and plants.

c. Potential for effects/changes to Ocean Isle beach, Holden Beach, and Shallotte inlet, respectively.

d. Potential impacts to navigation.

e. Potential effects on regional sand sources and sand management practices, including the Federal (Ocean Isle Beach storm damage reduction) project.

f. Potential effects of shoreline protection.

g. Potential impacts on public health and safety.

h. Potential impacts to recreational and commercial fishing.

i. Potential impacts to cultural resources.

j. Potential impacts to future dredging and nourishment activities.

3. *Alternatives.* Five alternatives are being considered for the proposed project. These alternatives, including the No Action alternative, were further formulated and developed during the scoping process and are considered in the DEIS. A summary of alternatives under consideration are provided below:

a. Alternative 1—No Action (Continue Current Management Practices).

b. Alternative 2—Abandon/Retreat.

c. Alternative 3—Beach Fill Only (Including Federal Project).

d. Alternative 4—Shallotte Inlet Bar Channel Realignment with Beach Fill (Including Federal Project).

e. Alternative 5—Terminal Groin with Beach Fill (Including Federal Project)/ Applicants Preferred Alternative.

4. *Scoping Process.* Project Review Team meetings were held to receive comments and assess concerns regarding the appropriate scope and preparation of the DEIS. Federal, state, and local agencies and other interested organizations and persons participated in these Project Review Team meetings.

The Corps will initiate consultation with the United States Fish and Wildlife Service pursuant to the Endangered Species Act and the Fish and Wildlife Coordination Act. The Corps will also consult with the National Marine Fisheries Service pursuant to the Magnuson-Stevens Act and Endangered Species Act. The Corps will coordinate with the State Department of Cultural Resources pursuant to Section 106 of the National Historic Preservation Act.

Potential water quality concerns will be addressed pursuant to Section 401 of the Clean Water Act through coordination with the North Carolina Divisions of Coastal Management (DCM) and Water Resources (DWR). This coordination will insure consistency with the Coastal Zone Management Act and project compliance with water quality standards. The Corps has coordinated closely with DCM in the development of the DEIS to ensure the process complies with State Environmental Policy Act (SEPA) requirements, as well as the NEPA requirements. The DEIS has been designed to consolidate both NEPA and SEPA processes to eliminate duplications.

5. *Availability of the DEIS.* The DEIS has been published and circulated. The DEIS for the proposal can be found at the following link: *http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx* under Major Projects/Town of Ocean Isle Terminal Groin Project. The public is invited to attend, and/or comment at, a public hearing to be held at Union Elementary School, 180 Union School Rd., NW., Shallotte, NC 28459, on February 24, at 6:00 p.m. Written comments on the DEIS will be received until 5 p.m., March 9, 2015.

Dated: January 14, 2015.

Scott McLendon,

Chief, Regulatory Division.

[FR Doc. 2015–01035 Filed 1–22–15; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Meeting for the Draft Environmental Impact Statement for Military Readiness Activities at the Fallon Range Training Complex (FRTC), Nevada

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and regulations implemented by the Council on Environmental Quality (40 Code of Federal Regulations (CFR) parts 1500–1508), the Department of the Navy (DoN) has prepared and filed with the U.S. Environmental Protection Agency a Draft Environmental Impact Statement (EIS) to assess the potential environmental impacts of ongoing and proposed military training activities within the FRTC EIS Study Area. The Bureau of Land Management is a cooperating agency for this EIS.

With the filing of the Draft EIS, the DoN is initiating a 46-day public comment period beginning on January 23, 2015 and ending on March 9, 2015 and has scheduled a public meeting to inform the public and receive comments on the accuracy and adequacy of the Draft EIS. This notice announces the date and location of the public meeting and provides supplementary information about the environmental planning effort.

Dates and Addresses: The DoN will hold a public meeting to inform the public about the proposed action and alternatives under consideration and to provide an opportunity for the public to comment on the accuracy and adequacy of the environmental analysis presented in the Draft EIS. Federal, state, and local agencies and officials, Native American Indian Tribes and Nations, and interested organizations and individuals are encouraged to provide comments in person at the public meeting or in writing during the public review period.

A public meeting will be held between 5:00 p.m. and 7:00 p.m. on Thursday, February 19, 2015, at the Churchill County Commission Chambers, 155 North Taylor Street, Fallon, Nevada 89406. The public meeting will be an open house session with informational poster stations staffed by DoN representatives. A brief DoN presentation will be given at 5:30 p.m.

Attendees will be able to submit oral and written comments during the public meeting. Oral comments from the public will be recorded by a certified court reporter. Equal weight will be given to oral and written statements. Written comments may also be submitted to: Naval Facilities Engineering Command Southwest, Attention: Ms. Amy Kelley, Code EV21.AK; 1220 Pacific Highway, Building 1, 5th Floor; San Diego, CA 92132. Written comments may also be submitted electronically via the project Web site (*www.FRTCEIS.com*).

All comments submitted during the public review period, oral or written, will become part of the public record. All comments will be reviewed and responded to in the Final EIS. For consideration in the Final EIS, comments must be postmarked or received online by March 9, 2015.

FOR FURTHER INFORMATION CONTACT: Naval Facilities Engineering Command Southwest; Attention: Ms. Amy Kelley, Code EV21.AK; 1220 Pacific Highway Building 1, 5th Floor; San Diego, CA 92132.

SUPPLEMENTARY INFORMATION: The FRTC is a set of well-defined geographic training areas in the high desert of northern Nevada encompassing airspace, land ranges, and associated electronic systems used primarily for air and ground training activities. In total, the complex encompasses approximately 230,000 acres of training land and 12,256 square nautical miles of airspace. A portion of the FRTC, Naval Air Station (NAS) Fallon, is located six miles to the southeast of the city of Fallon. The land and airspace of the FRTC comprises the Study Area evaluated in the Draft EIS.

The DoN's Proposed Action is to continue and enhance ground and aviation training activities within the existing FRTC study area. To support training requirements for fleet readiness, the DoN proposes to adjust training activities from current levels to the levels needed to accommodate evolving mission requirements, including those resulting from training, tactics development, testing, and introduction

of new aircraft and weapons systems into the fleet. A Notice of Intent to prepare this Draft EIS was published in the **Federal Register** on May 28, 2013 (78 FR 31909).

The purpose of the Proposed Action is to provide sustainable and modern airspace, range, maneuver areas, training facilities, and range infrastructure and resources to fully support training activities occurring within the FRTC in accordance with the assigned roles and missions for the Naval Strike and Air Warfare Center (NSAWC) and to provide ground training opportunities for other Services. The Proposed Action is needed to achieve and maintain military readiness by using the FRTC to support and conduct military readiness activities in compliance with the DoN's roles and responsibilities under Title 10 of the U.S. Code (U.S.C). To comply with its 10 U.S.C. 5062 mandates, the DoN needs to: (1) Maintain current levels of military readiness by enhancing training at the FRTC; (2) accommodate possible future increases in training activities at the FRTC; (3) accommodate training activities associated with force structure changes; and (4) maintain the long-term viability of the FRTC as a military training and testing range.

The Draft EIS evaluates the potential environmental effects of the following three alternatives:

1. No Action Alternative: Includes training activities of the same type, level of intensity, and frequency are currently conducted within the FRTC Study Area. The No Action Alternative provides a baseline against which the potential environmental impacts of the other action alternatives can be compared.

2. Alternative 1: In addition to baseline training activities, Alternative 1 includes an overall 6 percent increase in the types of training activities and the number of training events conducted within the FRTC Study Area, and includes force structure changes (*e.g.,* new aircraft, weapons, or tactics). The increased activities are Combat Search and Rescue exercises, Gunnery Exercise (Air-to-Ground), High-speed Anti-radiation Missile Exercises, and Missile Exercises (Air-to-Ground). In addition, two activities formerly conducted at the FRTC, Ground LASER Targeting and Dismounted Fire and Maneuver, are included under Alternative 1 as new activities.

3. Alternative 2: Includes all elements of Alternative 1. In addition, training activities of the types currently conducted would be increased by 10 percent over levels identified in Alternative 1. This alternative is identified as the Preferred Alternative in the Draft EIS.

The Draft EIS provides an analysis of the potential environmental effects of the proposed action on the following resources: Soils; air quality; water quality; noise (airborne); biological resources; land use and recreation; socioeconomics, environmental justice and protection of children; transportation; cultural resources; and public health and safety. The results of the analysis indicate that implementation of the Preferred Alternative (Alternative 2) would result in no potentially significant environmental impacts for any resource area. Consultation with the Nevada State Historic Preservation Officer (SHPO) and Native American Tribes under Section 106 of the National Historic Preservation Act is pending.

The Draft EIS was distributed to federal, state, and local agencies and elected officials, Native American Indian Tribes and Nations, and other interested individuals and organizations. The Draft EIS is available for public electronic viewing or download at the project Web site at *www.FRTCEIS.com.* A paper copy of the Draft EIS may be reviewed at each of the following public libraries:

1. Austin Branch Library, 88 Main Street, Austin, NV 89310.

2. Carson City Library, 900 North Roop Street, Carson City, NV 89701.

3. Churchill County Library Annex, 507 South Maine Street, Fallon, NV 89406.

4. Crescent Valley Branch Library, 5045 Tenabo Avenue, Crescent Valley Town Center, Suite 103, Crescent Valley, NV 89821.

5. Eureka Branch Library, 80 South Monroe Street, Eureka, NV 89316.

6. Gabbs Community Library, 602 3rd Street, Gabbs, NV 89409.

A single compact disc of the Draft EIS will be made available upon written request.

(Authority: 35 U.S.C. 207, 37 CFR Part 404)

Dated: January 16, 2015.

N.A. Hagerty-Ford,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2015–01121 Filed 1–22–15; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Application for New Awards; Indian Education Formula Grants to Local Educational Agencies

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

Overview Information

Indian Education Formula Grants to Local Educational Agencies Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.060A.

DATES: Part I of the Formula Grant Electronic Application System for Indian Education (EASIE) Applications Available: January 26, 2015.

Deadline for Transmittal of Part I Applications: February 27, 2015.

Part II of the Formula Grant EASIE Applications Available: April 10, 2015.

Deadline for Transmittal of Part II Applications: May 15, 2015.

Note: Applicants must meet the deadlines for both EASIE Part I and Part II to receive a grant. Any application not meeting the Part I and Part II deadlines will not be considered for funding. Failure to submit the required supplemental documentation, described in section IV. 2 *Content and Form of Application Submission,* by the EASIE Parts I and II deadlines will result in an incomplete application that will not be considered for funding. The Office of Indian Education recommends uploading the documentation at least three days prior to each closing date to ensure that any potential submission issues are resolved prior to the deadlines.

I. Funding Opportunity Description

Purpose of Program: The Indian Education Formula Grants to Local Educational Agencies (Formula Grants) program provides grants to support local educational agencies (LEAs) and other eligible entities described in this notice in reforming and improving elementary and secondary school programs that serve Indian students. The Department funds comprehensive programs that are designed to help Indian students meet the same State academic content and student academic achievement standards used for all students while addressing the language and cultural needs of Indian students. Such programs include supporting the professional development of teachers of Indian students.

In addition, under section 7116 of the Elementary and Secondary Education Act of 1965, as amended (ESEA), the Secretary will, upon receipt of an acceptable plan for the integration of education and related services, and in cooperation with other relevant Federal agencies, authorize the entity receiving the funds under this program to consolidate all Federal formula funds that are to be used exclusively for Indian students. Instructions for

submitting an integration of education and related services plan are included in the EASIE, which is described under *Application Process and Submission Information* in section IV of this notice.

Note: Under the Formula Grants program, applicants are required to develop the project for which an application is made: (a) In open consultation with parents and teachers of Indian students and, if appropriate, Indian students from secondary schools, including through public hearings held to provide a full opportunity to understand the program and to offer recommendations regarding the program (section 7114(c)(3)(C) of the ESEA); (b) with the participation of a parent committee selected in accordance with section 7114(c)(4) of the ESEA; and (c) with the written approval of that parent committee (section 7114(c)(4) of the ESEA).

Program Authority: 20 U.S.C. 7421 *et seq.*

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

II. Award Information

Type of Award: Formula grants.

Estimated Available Funds: $100,381,000.

Estimated Range of Awards: $4,000 to $2,990,899.

Estimated Average Size of Awards: $77,216.

Estimated Number of Awards: 1,300.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

III. Eligibility Information

1. *Eligible Applicants:* Certain LEAs, including charter schools authorized as LEAs under State law, as prescribed by section 7112(b) of the ESEA, certain schools funded by the Bureau of Indian Education of the U.S. Department of the Interior, as prescribed by section 7113(d) of the ESEA, and Indian tribes under certain conditions, as prescribed by section 7112(c) of the ESEA.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. Section 7114(c)(1) of ESEA states that the LEA will use these grant funds only to supplement the funds that, in the absence of these Federal funds, such agency would make available for the education of Indian children, and not to supplant such funds.

IV. Application and Submission Information

1. *How to Request an Application Package:* You can obtain an application for grants under this program by contacting EdFacts Partner Support Center listed under *Agency Contacts* in section VI of this notice.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the EDFacts Partner Support Center listed under *Agency Contacts* in section VI of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in EASIE.

a. *Supplementary Documentation:* The EASIE application requires the electronic submission of the following supplementary documentation.

(i) In EASIE Part I, applicants that are tribes must upload their verification of eligibility no later than the deadline for transmittal of EASIE Part I. The details of the verification process, which is necessary to meet the statutory eligibility requirements for tribes, are in the application package. Tribes may use the sample agreement for Tribes Applying in Lieu of LEAs, which is available in EASIE as a downloadable document, as a guide.

(ii) In EASIE Part II, an applicant that is the lead LEA for a consortium of LEAs must upload a consortium agreement that meets the requirements of 34 CFR 75.128(b) no later than the deadline for transmittal of EASIE Part II. The consortium may use the sample agreement, which is available in EASIE as a downloadable document, as a guide.

(iii) In EASIE Part II, an applicant that is an LEA or consortia of LEAs must upload the Indian Parent Committee Approval form no later than the deadline for transmittal of EASIE Part II. The required form is available in EASIE.

3. *Submission Dates and Times:* Part I of the Formula Grant EASIE Applications Available: January 26, 2015.

Deadline for Transmittal of Part I Applications: February 27, 2015, 11:59:59 p.m., Washington DC time.

Part II of the Formula Grant EASIE Applications Available: April 10, 2015.

Deadline for Transmittal of Part II Applications: May 15, 2015, 11:59:59 p.m., Washington DC time.

Applications for grants under this program must be submitted electronically using EASIE. For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirements, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VI of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Below are tables summarizing the FY 2015 EASIE deadlines for Part I and Part II.

Entity type	Requirement	Open date	Close/due date
All applicants	EASIE Part I	Jan 26, 2015	Feb 27, 2015, 11:59:59 p.m, Washington DC time.
Tribe in Lieu of LEA(s)	Upload Tribes Applying in Lieu of LEAs Agreement.	Jan 26, 2015	Feb 27, 2015, 11:59:59 p.m., Washington DC time.

Applicants must meet the deadlines for Part I to be eligible to complete Part II of the application process.

Entity type	Requirement	Open date	Close/due date
All applicants	EASIE Part II	Apr 10, 2015	May 15, 2015, 11:59:59 p.m., Washington DC time.
LEA Consortium	Upload Consortium Agreement	Apr 10, 2015	May 15, 2015, 11:59:59 p.m., Washington DC time.
All LEA (and Consortia) applicants	Upload Indian Parent Committee Approval Form.	Apr 10, 2015	May 15, 2015, 11:59:59 p.m., Washington DC time.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference additional regulations outlining funding restrictions under *Applicable Regulations* in section I of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database with information on registration provided below;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov. and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Formula Grants program, CFDA number 84.060A, must be submitted electronically using EASIE.

Applications submitted in paper format will be rejected unless you qualify for one of the exceptions to the electronic submission requirement described later in this section under *Exception to Electronic Submission Requirement,* and follow the submission rules outlined therein.

EASIE Electronic Application System: EASIE is an easy-to-use, electronic application system. This system allows the Department to review applications and interact online with applicants during the application review and approval process.

The EASIE application is divided into two parts—Part I and Part II.

Part I, Student Count, provides the appropriate data-entry screens to submit your verified Indian student count totals. Applicants must use the Indian Student Eligibility Certification Form (ED 506 Form) to document eligible Indian students. An ED 506 form must be completed in full, signed, and dated by the child's parent to certify an Indian student's eligibility for the program. Bureau of Indian Education schools will be required to enter either their Indian School Equalization Program (ISEP) or ED 506 Form count as an Indian student count in Part I of the application.

Also in Part I, new applicants will indicate the time span for the project objectives and corresponding activities and services for American Indian/Alaska Native (AI/AN) students. Applicants can choose to set objectives that remain the same for up to four years in order to facilitate data collection and enhance long-term planning. Grantees that established multi-year project objectives for current grants will not have to re-enter information in EASIE Part II for FY 2015 if they have no changes to their project objectives, activities, or coordination of services. Grantees that previously established multi-year project objectives and would like to change the objectives, activities, or coordination of services for FY 2015 will need to indicate in Part I the duration of the new selections.

In EASIE Part II, for new applicants or applicants making changes: First, you will identify, from a list of possible programs (*e.g.,* ESEA title I), the programs in the school district that are currently coordinated with a title VII project, or with which the school district plans to coordinate during the project year, in accordance with the statutory requirement to provide a comprehensive program that includes other Federal, State, and local funds. Next you will describe the coordination of services for AI/AN students and identify specific project objectives towards the goal of providing culturally responsive education for AI/AN students to meet their academic needs and help them meet State achievement

standards. You will also choose the data sources that will be used to measure progress towards meeting project objectives, and on which you will report in the annual performance report (APR) after the grant year closes.

Finally, in EASIE Part II, you will submit a realistic program budget based on the estimated grant amount that the EASIE system calculates from the Indian student count you submitted in EASIE Part I. After the initial grant amounts are determined, additional funds may become available due to such circumstances as withdrawn applications or reduction in an applicant's student count. An applicant whose award amount increases or decreases more than $1,000 must submit a revised budget prior to receiving its grant award but will not need to re-certify its application. For an applicant that receives an increase or decrease in its award of less than $1,000, there will be no need for further action. For any applicant that receives notification of an increased award amount following submission of its original budget, the applicant must allocate the increased amount only to previously approved budget categories.

Registration for Formula Grant EASIE: Current, former, and new applicants interested in submitting an Indian Education Formula Grant EASIE application must register for Formula Grant EASIE. Entities are encouraged to register as soon as possible at the registration Web site *www.easie.org,* to ensure that any potential registration issues are resolved prior to the deadline for the submission of an application. The purpose of the initial registration is to activate or re-activate entities' access to EASIE and to ensure that the correct entity information (*e.g.,* NCES or DUNS numbers) is pre-populated into the first part of Formula Grant EASIE. The registration Web site does not serve as the entity's grant application. For assistance registering, contact the EDFacts Partner Support Center listed under *Agency Contacts* in section VI of this notice.

Certification for Formula Grant EASIE: The applicant's authorized representative, who must be an employee of the applicant, must certify both Part I and Part II of EASIE. Only users with the role type ''managing user'' or ''certifying official user'' in the EASIE system can certify an application. The certification process ensures that the information in the application is true, reliable, and valid. An applicant that provides a false statement in the application is subject to penalties under the False Claims Act, 18 U.S.C. 1001.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the EASIE system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload documents to the EASIE system; and
- No later than two weeks before the application deadline date for Part I (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks (14 calendar days) before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Bernard Garcia, U.S. Department of Education, Office of Indian Education, 400 Maryland Avenue SW., Room 3W115, Washington, DC 20202–6335. FAX: (202) 205–0606.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline dates for both Part I and Part II, to the Department at the following address: U.S. Department of Education, Office of Indian Education, Attention: CFDA Number 84.060A, 400 Maryland Avenue SW., Room 3W115, Washington, DC 20202–6335.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

We will not consider applications postmarked after the application deadline date for Part I or Part II.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline dates for both Part I and Part II, to the Department at the following address: U.S. Department of Education, Office of Indian Education, Attention: CFDA Number 84.060A, 400 Maryland Avenue SW., Room 3W115, Washington, DC 20202–6335.

The program office accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note For Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—on your application the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The program office will mail you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you may contact the program office at (202) 260–3774.

V. Grant Administration Information

1. *Special Conditions:* Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

2. *Administrative and National Policy Requirements:* We identify

administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice. We reference the regulations outlining the terms and conditions of a grant in the *Applicable Regulations* section of this notice.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) You must submit a performance report, including financial information, as directed by the Secretary, within 90 days after the close of the grant year. For FY 2015, grantees will use a new online APR designed for these Indian Education formula grants. Information on the APR will be located at this link: *http://www2.ed.gov/programs/indianformula/resources.html.*

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness and efficiency of the Formula Grants program: (1) The percentage of AI/AN students in grades four and eight who score at or above the basic level in reading on the National Assessment of Educational Progress (NAEP); (2) the percentage of AI/AN students in grades four and eight who score at or above the basic level in mathematics on the NAEP; (3) the percentage of AI/AN students in grades three through eight meeting State performance standards by scoring at the proficient or the advanced levels in reading and mathematics on State assessments; (4) the difference between the percentage of AI/AN students in grades three through eight at the proficient or advanced levels in reading and mathematics on State assessments and the percentage of all students scoring at those levels; (5) the percentage of AI/AN students who graduate from high school; and (6) the percentage of funds used by grantees prior to award close-out.

VI. Agency Contacts

FOR FURTHER INFORMATION CONTACT: For questions about the Formula Grants program, contact Bernard Garcia, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W115, Washington, DC 20202–6335. Telephone: (202) 260–1454 or by email: *Bernard.Garcia@ed.gov.* For questions about the EASIE application and uploading documentation, contact the EDFacts Partner Support Center, telephone: 877–457–3336 (877–HLP–EDEN) or by email at: *eden_OIE@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the EDFacts Partner Support Center, toll free, at 1–888–403–3336 (888–403–EDEN).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the EDFacts Partner Support Center listed under *Agency Contacts* in section VI of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as other documents of this Department published in the **Federal Register** in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: January 20, 2015.

Deborah S. Delisle,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2015–01202 Filed 1–22–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Board for Education Sciences; Open Meeting

AGENCY: Institute of Education Sciences, U.S. Department of Education.

ACTION: Announcement of an Open Meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting of the National Board for Education Sciences (NBES). The notice also describes the functions of the Committee. Notice of this meeting is required by Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend the meeting.

DATES: The NBES meeting will be held on February 6, 2015, from 9:00 a.m. to 4:00 p.m. Eastern Standard Time.

ADDRESSES: 80 F Street NW., Large Board Room, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Ellie Pelaez, Designated Federal Official, NBES, U.S. Department of Education, 555 New Jersey Avenue NW, Room 600 E, Washington, DC 20208; phone: (202) 219–0644; fax: (202) 219–1402; email: *Ellie.Pelaez@ed.gov.*

SUPPLEMENTARY INFORMATION:

NBES's Statutory Authority and Function: The National Board for Education Sciences is authorized by Section 116 of the Education Sciences Reform Act of 2002 (ESRA), 20 U.S.C. 9516. The Board advises the Director of the Institute of Education Sciences (IES) on, among other things, the establishment of activities to be supported by the Institute and the funding for applications for grants, contracts, and cooperative agreements for research after the completion of peer review. The Board also reviews and evaluates the work of the Institute.

Meeting Agenda: On February 6, 2015, starting at 9:00 a.m., the Board meeting will commence and members will approve the agenda. From 9:15 to 10:45 a.m., the Board will discuss IES's Scientific Review Process. Sue Betka, Acting IES Director and Anne Ricciuti, IES's Deputy Director for Science, will provide opening remarks. Roundtable discussion by board members will take place after. A break will take place from 10:45 to 11:00 a.m.

The Board meeting will resume from 11:00 to 12:00 p.m. when the Board will discuss ''Adaptive Designs for IES's National Center for Education Statistics (NCES).'' Peggy Carr, Acting Commissioner of NCES, will provide opening remarks and a roundtable discussion by board members will follow. The meeting will break for a working lunch for annual ethics training from 12:00 to 1:00 p.m.

From 1:00 p.m. to 2:00 p.m., the Commissioners of IES's national centers will give an overview of recent developments at IES. This session will be followed by a question and answer period regarding the Commissioners' reports. A break will take place from 2:00 to 2:15 p.m.

The meeting will resume at 2:15 to 3:45 p.m. when the Board will discuss ''Improving IES's Research and Training Grant Programs.'' Board members will engage in a discussion with Joan McLaughlin, Commissioner, National Center for Special Education Research, and Thomas Brock, Commissioner, National Center for Education Research.

Closing remarks from Sue Betka and NBES Chairman David Chard, will take place from 3:45 to 4:00 p.m., with adjournment scheduled for 4:00 p.m.

Submission of comments regarding the Board's policy recommendations: There will not be an opportunity for public comment. However, members of the public are encouraged to submit written comments related to NBES to Ellie Pelaez (see contact information above). A final agenda is available from Ellie Pelaez (see contact information above) and is posted on the Board Web site *http://ies.ed.gov/director/board/agendas/index.asp.*

Access to Records of the Meeting: The Department will post the official report of the meeting on the NBES Web site no later than 90 days after the meeting. Pursuant to the FACA, the public may also inspect the materials at 555 New Jersey Avenue NW., 6th Floor, Washington, DC, by emailing *Ellie.Pelaez@ed.gov* or by calling (202) 219–0644 to schedule an appointment.

Reasonable Accommodations: The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice by or before January 30, 2015. Although we will attempt to meet a request received after January 30, 2015, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Section 116 of the Education Sciences Reform Act of 2002 (ESRA), 20 U.S.C. 9516.

Sue Betka,

Acting Director, Institute of Education Science.

[FR Doc. 2015–01090 Filed 1–22–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF EDUCATION

President's Board of Advisors on Historically Black Colleges and Universities

AGENCY: President's Board of Advisors on Historically Black Colleges and Universities, Office of Undersecretary, Department of Education.

ACTION: Announcement of an open meeting.

SUMMARY: This notice sets forth the agenda for the February 4, 2015, meeting of the President's Board of Advisors on Historically Black Colleges and Universities (PBA) and provides information to members of the public on submitting written comments and on the process as to how to request time to make oral comments at the meeting. The notice also describes the functions of the Board. Notice of the meeting is required by § 10(a)(2) of the Federal Advisory Committee Act and intended to notify the public of its opportunity to attend.

DATES: The PBA meeting will be held on February 4, 2015, from 9 a.m. to 2:00 p.m. at the National Aeronautics and Space Administration Headquarters, 300 E Street SW., Washington, DC 20546.

ADDRESSES: U.S. Department of Education, White House Initiative on Historically Black Colleges and Universities, 400 Maryland Avenue SW., Washington, DC 20202. The exact location of the meeting will be published in the **Federal Register** and on the Department's Web site at *http://www.ed.gov/edblogs/whhbcu/policy/presidents-board-of-advisors-pba-on-hbcus/* by January 29, 2015.

FOR FURTHER INFORMATION CONTACT: Sedika Franklin, Program Specialist, U.S. Department of Education, White House Initiative on Historically Black Colleges and Universities, 400 Maryland Avenue SW., Washington, DC 20204; telephone: (202) 453–5634 or (202) 453–5630, fax: (202) 453–5632, or email *sedika.franklin@ed.gov.*

SUPPLEMENTARY INFORMATION: *PBA's Statutory Authority and Function:* The President's Board of Advisors on Historically Black Colleges and Universities (the Board) is established by Executive Order 13532 (February 26, 2010). The Board is governed by the provisions of the Federal Advisory Committee Act (FACA), (Pub. L. 92–463; as amended, 5 U.S.C.A., Appendix 2) which sets forth standards for the formation and use of advisory committees. The purpose of the Board is to advise the President and the Secretary of Education (Secretary) on all matters pertaining to strengthening the educational capacity of Historically Black Colleges and Universities (HBCUs).

The Board shall advise the President and the Secretary in the following areas: (i) Improving the identity, visibility, and distinctive capabilities and overall competitiveness of HBCUs; (ii) engaging the philanthropic, business, government, military, homeland-security, and education communities in a national dialogue regarding new HBCU programs and initiatives; (iii) improving the ability of HBCUs to remain fiscally secure institutions that can assist the nation in reaching its goal of having the highest proportion of college graduates by 2020; (iv) elevating the public awareness of HBCUs; and (v) encouraging public-private investments in HBCUs.

Meeting Agenda: In addition to its review of activities since May 22, 2014, the meeting agenda will include subcommittee discussions regarding the outcome of the National Institute of Standards and Technology summit held on November 3, 2014; the White House Initiative on HBCUs' 2012 Report to the President on the Results of the Participation of Historically Black Colleges and Universities in Federal Programs and updates on the draft of the White House Initiative on HBCUs' 2013 Report to the President on the Results of the Participation of Historically Black Colleges and Universities in Federal Programs; U.S. Department of Education's Under Secretary, Ted Mitchell will provide an update on current and new policies/initiatives from the department; Deputy director, Ivory Toldson will provide updates on the HBCU All Star program and discuss next steps for the HBCU Dashboard; David Johns, executive director of the White House Initiative on Educational Excellence for African Americans will discuss the joint meeting requirement for the Board.

Below is a list of agencies, scheduled to provide updates on fiscal year 2015 activities and outreach during the February 4, 2015 meeting:

- National Aeronautics and Space Administration
- U.S. Department of Energy

Submission of requests to make an oral comment: There are two methods the public may use to make an oral comment at the February 4, 2015 meeting.

Method One: Submit a request by email to the *oswhi-hbcu@ed.gov* mailbox. Please do not send material directly to PBA members. Requests must be received by February 2, 2015, and include the subject line ''Oral Comment Request: (organization name).'' The email must include the name(s), title, organization/affiliation, mailing address, email address, telephone number, of the person(s) requesting to speak, and a brief summary (not to exceed one page) of the principal points to be made during the oral presentation. All individuals submitting an advance request in accordance with this notice will be afforded an opportunity to speak.

Method Two: Register at the meeting location on February 4, 2015, to make an oral comment during the PBA's deliberations concerning Historically Black Colleges and Universities. The requestor must provide his or her name, title, organization/affiliation, mailing address, email address, and telephone number. Individuals will be selected on a first-come, first-served basis. If selected, each commenter may not exceed three minutes.

All oral comments made will become part of the official record of the Board. Similarly, written materials distributed during oral presentations will become part of the official record for the meeting.

Submission of written public comments: The Committee invites written comments to be read during the Public Comment segment of the agenda. Comments must be received by February 2, 2015, in the *oswhi-hbcu@ed.gov* mailbox and include the subject line ''Written Comments: Public Comment''. The email must include the name(s), title, organization/affiliation, mailing address, email address, and telephone number, of the person(s) making the comment. Comments should be submitted as a Microsoft Word document or in a medium compatible with Microsoft Word (not a PDF file) that is attached to an electronic mail message (email) or provided in the body of an email message. Please do not send material directly to the PBA members.

Access to Records of the Meeting: The Department will post the official report of the meeting on the PBA Web site 90 days after the meeting. Pursuant to the Federal Advisory committee Act (FACA), the public may also inspect the materials at 400 Maryland Avenue SW., Washington, DC, by emailing *oswhi-hbcu@ed.gov* or by calling (202) 453–5634 to schedule an appointment.

Reasonable Accommodations: The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least one week before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Presidential Executive Order 13532.

Ted Mitchell,

Under Secretary.

[FR Doc. 2015–01119 Filed 1–22–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF EDUCATION

Submission of Data by State Educational Agencies; Submission Dates for State Revenue and Expenditure Reports for Fiscal Year (FY) 2014, Revisions to Those Reports, and Revisions to Prior Fiscal Year Reports

AGENCY: National Center for Education Statistics, Institute of Education Sciences, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary announces dates for State educational agencies(SEAs)to submit expenditure and revenue data and average daily attendance statistics on ED Form 2447 (the National Public Education Financial Survey (NPEFS)) for fiscal year (FY) 2014, revisions to those reports, and revisions to prior fiscal year reports. The Secretary sets these dates to ensure that data are available to serve as the basis for timely distribution of Federal funds. The U.S. Census Bureau is the data collection agent for this request of the Department of Education's National Center for Education Statistics (NCES). The data will be published by NCES and will be used by the Secretary in the calculation of allocations for FY 2016 appropriated funds.

DATES: SEAs can begin submitting data on Friday, January 30, 2015. The deadline for the final submission of all data, including any revisions to previously submitted data for FY 2013 and FY 2014, is Friday, August 14, 2015. Any resubmissions of FY 2013 or FY 2014 data by SEAs in response to requests for clarification, reconciliation, or other inquiries by NCES or the Census Bureau must be completed as soon as possible, but no later than Tuesday, September 8, 2015. All outstanding data issues must be reconciled or resolved by the SEAs, NCES, and the Census Bureau as soon as possible, but no later than September 8, 2015.

Addresses and Submission Information: SEAs may mail ED Form 2447 to: U.S. Census Bureau, ATTENTION: Governments Division, Washington, DC 20233–6800.

SEAs may submit data online using the interactive survey form on the NPEFS data collection Web site at: *http://surveys.nces.ed.gov/ccdnpefs.* The NPEFS Interactive includes a digital confirmation page where a personal identification number (PIN) may be entered. A successful entry of the PIN serves as a signature by the authorizing official. A certification form also may be printed from the Web site, signed by the authorizing official, and mailed to the Governments Division of the Census Bureau at the Washington, DC address provided above, no later than five business days of submission of the NPEFS Web interactive form.

Alternatively, SEAs may hand-deliver submissions by 4:00 p.m. (Washington, DC time) on August 14, 2015, to: Governments Division, U.S. Census Bureau, 4600 Silver Hill Road, Suitland, MD 20746.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Q. Cornman, NPEFS Project Director, National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education. Telephone: (202) 502–7338 or by email: *stephen.cornman@ed.gov.* You may also

contact an NPEFS team member (Census Bureau). Telephone: 1–800–437–4196 or (301)763–1571 or by email: *Govs.npefs.list@census.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Under section 153(a)(1)(I) of the Education Sciences Reform Act of 2002, 20 U.S.C. 9543, which authorizes NCES to gather data on the financing of education, NCES collects data annually from SEAs through ED Form 2447. The report from SEAs includes attendance, revenue, and expenditure data from which NCES determines a State's ''average per-pupil expenditure'' (SPPE) for elementary and secondary education, as defined in section 9101(2) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7801(2)).

In addition to using the SPPE data as general information on the financing of elementary and secondary education, the Secretary uses these data directly in calculating allocations for certain formula grant programs, including, but not limited to, title I, part A of the ESEA, Impact Aid, and Indian Education programs. Other programs, such as the Education for Homeless Children and Youth program under Title VII of the McKinney-Vento Homeless Assistance Act and the Teacher Quality State Grants program (title II, part A of the ESEA), make use of SPPE data indirectly because their formulas are based, in whole or in part, on State Title I, part A allocations.

In January 2015, the Census Bureau, acting as the data collection agent for NCES, will email to SEAs ED Form 2447, with instructions, and will request that SEAs commence submitting FY 2014 data to the Census Bureau on Friday, January 30, 2015. SEAs are urged to submit accurate and complete data by Friday, March 13, 2015, to facilitate timely processing.

Submissions by SEAs to the Census Bureau will be analyzed for accuracy and returned to each SEA for verification. SEAs must submit all data, including any revisions to FY 2013 and FY 2014 data, to the Census Bureau no later than Friday, August 14, 2015. Any resubmissions of FY 2013 or FY 2014 data by SEAs in response to requests for clarification, reconciliation, or other inquiries by NCES or the Census Bureau must be completed by Tuesday, September 8, 2015. Between August 14, 2015, and September 8, 2015, SEAs may also, on their own initiative, resubmit data to resolve issues not addressed in their final submission of NPEFS data by August 14, 2015. All outstanding data issues must be reconciled or resolved by the SEAs, NCES, and the Census Bureau as soon as possible, but no later than September 8, 2015.

In order to facilitate timely submission of data, the Census Bureau will send reminder notices to SEAs in May, June, and July of 2015.

Having accurate, consistent, and timely information is critical to an efficient and fair Department of Education (Department) allocation process and to the NCES statistical process. To ensure timely distribution of Federal education funds based on the best, most accurate data available, the Department establishes, for program funding allocation purposes, Friday, August 14, 2015, as the final date by which the SEAs must submit data online using the interactive survey form on the NPEFS data collection Web site at: *http://surveys.nces.ed.gov/ccdnpefs* or ED Form 2447 must be submitted.

Any resubmissions of FY 2013 or FY 2014 data by SEAs in response to requests for clarification, reconciliation, or other inquiries by NCES or the Census Bureau must be completed through the interactive survey form on the NPEFS data collection Web site or ED Form 2447 by Tuesday, September 8, 2015. If an SEA submits revised data after the final deadline that result in a lower SPPE figure, the SEA's allocations may be adjusted downward, or the Department may direct the SEA to return funds. SEAs should be aware that all of these data are subject to audit and that, if any inaccuracies are discovered in the audit process, the Department may seek recovery of overpayments for the applicable programs.

Note: The following are important dates in the data collection process for FY 2014:

January 30, 2015—SEAs can begin to submit accurate and complete data for FY 2014 and revisions to previously submitted data for FY 2013.

March 13, 2015—Date by which SEAs are urged to submit accurate and complete data for FY 2013 and FY 2014.

August 14, 2015—Mandatory final submission date for FY 2013 and FY 2014 data to be used for program funding allocation purposes.

September 8, 2015—Mandatory final deadline for responses by SEAs to requests for clarification, reconciliation, or other inquiries by NCES or the Census Bureau. All data issues must be resolved.

If an SEA's submission is received by the Census Bureau after August 14, 2015, the SEA must show one of the following as proof that the submission was mailed on or before that date:

1. A legibly dated U.S. Postal Service postmark.

2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

3. A dated shipping label, invoice, or receipt from a commercial carrier.

4. Any other proof of mailing acceptable to the Secretary.

If the SEA mails ED Form 2447 through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

1. A private metered postmark.

2. A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an SEA should check with its local post office.

Accessible Format: Individuals with disabilities may obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to: Mr. Stephen Q. Cornman, NPEFS Project Director, National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education. Telephone: (202) 502–7338 or by email: *stephen.cornman@ed.gov.*

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Authority: 20 U.S.C. 9543.

Dated: January 20, 2015.

Sue Betka,

Acting Director, Institute of Education Sciences.

[FR Doc. 2015–01201 Filed 1–22–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: U.S. Department of Energy.

ACTION: Notice and Request for OMB Review and Comment.

SUMMARY: The Department of Energy (DOE) has submitted to the Office of Management and Budget (OMB) for clearance, a proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995. DOE, Office of Science (SC), has chosen to leverage the use of Government, Off-the-Shelf (GOTS) software capabilities to implement a new consolidated system called Portfolio Analysis and Management System (PAMS).

DATES: Comments regarding this collection must be received on or before February 23, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

ADDRESSES: Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503.

And to Marina Amoroso, Program Management Specialist, Office of Information Technology and Services, Germantown Building; Room E–180, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585–1290, Email: *marina.amoroso@science.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Marina Amoroso by email at *marina.amoroso@science.doe.gov.*

SUPPLEMENTARY INFORMATION: This section contains the following information about the information collection submitted to OMB for review: (1) OMB No. New; (2) Information Collection Request Title: Portfolio Analysis and Management System (PAMS) Submissions for Letter of Intent (LOI), Pre-proposals, Interagency Proposals, and DOE National Laboratory Proposals; System Registration by External Users. (3) Type of Request: New collection; (4) Purpose: This new system is based on the Health Resources and Services Administration (HRSA) Electronic Handbooks software. Discretionary financial assistance proposals continue to be collected using Grants.gov but are imported into PAMS for use by the program offices. Under the proposed information collection, an external interface will be implemented in PAMS to allow two other types of proposal submission: DOE National Laboratories will be able to submit proposals for technical work authorizations directly into PAMS, while other Federal Agencies will be able to submit Proposals for interagency awards directly into PAMS. External users from all institution types will be able to submit Solicitation Letters of Intent and Pre-proposals directly into PAMS. All applicants, whether they submitted through Grants.gov or PAMS, will be able to register with PAMS to view the proposals that were submitted. They will also be able to maintain a minimal amount of information in their personal profile. The proposed collection will automate and streamline the submission, tracking, and correspondence portions of financial award pre-review processes. The information collected will be used by DOE to select applicants and projects for financial awards. (5) Annual Estimated Number of Respondents: The following numbers are calculated using the average of the number of financial assistance proposals received in fiscal year 2006 through fiscal year 2010. 9,920 PAMS registrants, who are to include 8,000 submitters of lab proposals, interagency proposals, pre-proposals, and Letters Of Intent (LOI) (assuming one person per estimated submission) and 1,920 reviewers of proposals submitted through Grants.gov. (6) Annual Estimated Number of Total Responses: The Office of Science receives about 1,000 DOE national laboratory and interagency proposals per year, based on a five-year average of estimated submission numbers (fiscal year 2006 through fiscal year 2010) and about 7,000 pre-proposals and letters of intent per year, based on an estimate of about 200 per solicitation and the number of solicitations per year (about 35, based on a five-year average between fiscal year 2006 and fiscal year 2010); (7) Annual Estimated Number of Burden Hours: The time it takes to complete a form depends upon the type of form being completed. External users will need to register with PAMS in order to access the system. It takes approximately 30 minutes for external users to complete the forms required to become a registered PAMS user. Both LOI and pre-proposal forms take 15 minutes each, whereas completing a lab/interagency proposal will take about 2 hours. The reviewers require about 1 hour of analysis, per submission. Based on the annual estimated number of responses, broken down by DOE national laboratory, letter of intent and pre-proposal, the annual estimated time required for reviewers to complete analysis or responses and the time required for external users to register with PAMS, the estimated annual number of burden hours is 10,630.

Total number of unduplicated respondents: 9,920.

Reports filed per person: 1.

Total annual responses: 9,920.

Total annual burden hours: 10,630.

(8) Annual Estimated Reporting and Recordkeeping Cost Burden: $0.

Statutory Authority

Section 641 of the Department of Energy Organization Act, codified at 42 U.S.C. 7251, authorizes the DOE to collect, use, and retain information that is mandatory for the financial awards process. All information comes from proposals, reviews, and reports that are submitted to the DOE by authorized external users (*i.e.,* scientists and research administrators).

Issued in Washington, DC, on December 1, 2014.

Marina Amoroso,

Deputy Project Manager for Information Technology and Services, Office of Science.

[FR Doc. 2015–01163 Filed 1–22–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator or Foreign Utility Company Status

	Docket Nos.
Binghamton BOP LLC	EG15–1–000
Lost Hills Solar, LLC	EG15–2–000
Blackwell Solar, LLC	EG15–3–000
Mesquite Creek Wind, LLC	EG15–4–000
Sky Global Power One, LLC.	EG15–5–000
Heritage Stoney Corners Wind Farm I, LLC.	EG15–6–000
Western Antelope Blue Sky Ranch A, LLC.	EG15–7–000
Duke Energy Miami Fort, LLC.	EG15–8–000
Duke Energy Zimmer, LLC	EG15–9–000
Spanish Town Estate Solar 1, LLC.	EG15–10–000
Diageo USVI Inc	FC15–1–000

Take notice that during the month of December 2014, the status of the above-captioned entities as Exempt Wholesale Generators or Foreign Utility Companies became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Dated: January 15, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01043 Filed 1–22–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14640–000]

South Maui Pumped Storage, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On October 20, 2014, South Maui Pumped Storage, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the South Maui Pumped Storage Project (South Maui Project or project) to be located on the Pacific Ocean, in unincorporated Maui County, Hawaii. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following new features: (1) Four 400-foot-long, 200-foot-wide, 50-foot-high oval concrete storage tanks; (2) a 12,000-foot-long, 4.5-foot-diameter buried steel penstock; (3) a 150-foot-long, 68-foot-wide concrete powerhouse; (4) two 15 megawatt (MW) Pelton turbine/generators; (5) three 10 MW multi-stage variable speed pumps; (6) an approximately 400-foot-wide, 450-foot-long tailrace/forebay; [1] (7) a 12,000-foot-long, 4.5-foot-diameter buried steel supply pipeline; (8) two 28-kilovolt transmission lines totaling 8,000 feet long, interconnecting with the existing Sempra Gas and Power-owned Auwahi wind turbine transmission line; (9) a 5.6-mile-long paved access road; and (10) appurtenant facilities. The estimated annual generation of the South Maui Project would be 5.2 gigawatt-hours.

Applicant Contact: Mr. Bart O'Keefe, United Power Corporation, P.O. Box 1916, Discovery Bay, California 94505; phone: (510) 634–1550.

FERC Contact: Sean O'Neill; phone: (202) 502–6462.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14640–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14640) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: January 16, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01140 Filed 1–22–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD14–14–000]

Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators; Notice Inviting Post-Technical Workshop Comments

On September 8, October 28, and December 9, 2014, the Federal Energy Regulatory Commission (Commission) staff conducted a series of technical workshops to evaluate issues regarding price formation in the energy and ancillary services markets operated by Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs) (RTOs/ISOs).

All interested persons are invited to file post-technical workshop comments on any or all of the questions listed in the attachment to this Notice. We emphasize that commenters need not answer all of the questions. Commenters should organize responses consistent with the structure of the attached questions and take care to identify to which RTO/ISO the comment applies. Commenters are also invited to reference material previously filed in this docket, including technical workshop transcripts. These comments must be filed with the Commission no later than 5:00 p.m. Eastern Standard Time on February 19, 2015.

For more information about this Notice, please contact:

Mary Wierzbicki (Technical Information), Office of Energy Policy and Information, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6337, *mary.wierzbicki@ferc.gov.*

Joshua Kirstein (Legal Information), Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8519, *joshua.kirstein@ferc.gov.*

Dated: January 16, 2015.

Kimberly D. Bose,

Secretary.

Post-Technical Conference Questions for Comment

The goals of proper price formation are to: Maximize market surplus for consumers and suppliers; provide correct incentives for parties to follow commitment and dispatch instructions, make efficient investments in facilities and equipment, and maintain reliability; provide transparency so that market participants understand how prices reflect the actual marginal cost of serving load and the operational constraints of reliably operating the system; and ensure that all suppliers have an opportunity to recover their costs. With proper price formation, the RTO/ISO would ideally not need to commit any additional resources beyond those resources scheduled economically through the market processes, and load would reduce consumption in response to price signals such that market prices would reflect the value of electricity consumption without the need to curtail load administratively.

[1] The tailrace/forebay would be a small constructed inlet from the Pacific Ocean. Flows from the turbines would discharge into the tailrace/forebay. Return flows for filling of the storage tanks would be pumped from the tailrace/forebay.

In reality, RTO/ISO energy and ancillary services market outcomes are impacted by a number of technical and operational considerations.[1] At three workshops on price formation—Uplift Workshop, held September 8, 2014 (Uplift Workshop); Shortage Pricing, Offer Price Mitigation, and Offer Price Caps Workshop, held October 28, 2014 (Shortage Pricing/Mitigation Workshop); and Operator Actions Workshop, held December 9, 2014 (Operator Actions Workshop)—panelists described software limitations, operational uncertainty, and limited flexibility of resources as challenges to achieving efficient price formation. These limitations are to some extent inherent in the complexity of the electric system and the tools available today to maintain reliable operations, and are unlikely to be addressed fully for the foreseeable future.[2]

Notwithstanding the foregoing technical limitations and operational realities, the Commission believes there may be opportunities for RTOs/ISOs to improve the energy and ancillary service price formation process.

Based on discussions during the three price formation workshops, Staff developed the following questions to better understand the ways in which to improve price formation in RTOs/ISOs. When responding to the questions below, please also comment on any relevant differences among RTOs/ISOs, the time needed to implement any potential solutions, and impediments to implementing any potential solutions.

1. Offer Caps

High natural gas prices during the winter of 2013–2014, as discussed at the price formation workshops, indicated that the current generic $1,000/MWh cap on energy offers (''offer cap'') might be insufficient to allow natural gas-fired generators to recover their costs when natural gas prices spike during constrained winter periods.

a. Should the $1,000/MWh offer cap be modified?

i. If the offer cap is modified, what form should the offer cap take? For instance, should a modified cap be set at a level greater than the current $1,000/MWh cap and apply even if a resource has costs greater than the new cap or should the offer cap be replaced with a structure that allows offers at the higher of marginal cost or the existing $1,000/MWh cap? Should it be a fixed cap or a floating cap that varies with the price of fuel (*e.g.,* natural gas)? If a modified cap were set as a fixed offer cap, what should the new offer cap be? What should be the basis for determining the fixed offer cap?

ii. If the offer cap should not be modified or set such that marginal costs could be greater than $1000/MWh, how should the Commission ensure that suppliers with costs greater than the cap have the opportunity to recover those costs?

iii. Do the real-time and day-ahead market clearing processes allow sufficient time to verify the cost-basis of the marginal resources that exceed the offer cap? Does the settlement process allow sufficient time to verify costs of resources that receive uplift associated with offers that exceed the offer cap?

b. What are the advantages and disadvantages of having offer caps be set at the same level across all RTOs/ISOs? Would different offer caps across the RTOs/ISOs exacerbate interface pricing issues at RTO/ISO borders? If so, how? Would an offer cap that takes the form of the higher of marginal cost or $1,000/MWh create the same issues as setting different offer caps across RTOs/ISOs?

c. What impact would adjusting the offer cap have on other aspects of RTO/ISO price formation (*e.g.,* mitigation rules or shortage pricing rules)? Would other market rule changes be necessary if offer cap levels were adjusted? Do other challenges associated with modifying offer cap rules exist? If so, what are they? If offer cap rules are adjusted, how quickly could RTOs/ISOs incorporate adjusted offer cap rules into their software and the market clearing process?

d. Should the same offer cap that applies to generation also apply to load bids? What are the advantages and disadvantages of applying an offer cap to load bids?

2. Transparency

At the Uplift and Operator Actions Workshops, some panelists addressed issues concerning insufficient transparency of uplift and operator actions.[3] Improved transparency could inform resource entry and exit and market rule discussions; improved transparency could also improve market understanding, predictability, and confidence.

a. What should RTOs/ISOs do to improve transparency of uplift credits and charges, unit commitment, and other operator actions? Please comment on the type of information that would be useful, why it is necessary, whether it should be shared with specific resources or available to all, the timing of its release, and whether it is feasible to release the information in real-time.

b. What types of information should not be shared publicly? Why? What are the concerns with commercially sensitive information?

c. Commission Staff's August 2014 report on uplift noted several issues with the consistency and granularity of uplift data provided as part of the Electric Quarterly Reports.[4] What steps could be taken to improve the quality of uplift data required to be reported as part of the Electric Quarterly Reports?

3. Pricing Fast-Start Resources

Commission Staff's December 2014 paper about operator-initiated commitments discussed how RTOs/ISOs relax the minimum operating level of resources to make certain block-loaded fast-start resources appear dispatchable to the pricing software, and thus eligible to set the market clearing price as the marginal resource.[5] The paper also discussed how some RTOs/ISOs have modified the locational marginal price (LMP) framework to include start-up and no-load costs of certain fast start resources (*e.g.,* New York Independent System Operator, Inc.'s (NYISO's) Hybrid Pricing).[6]

a. During the Operator Actions Workshop, panelists explained that relaxing resource minimum operating limits can lead to incentive and operational issues such as over-generation.[7] What tradeoffs are involved with relaxing the minimum operating limits of block-loaded resources to zero for purposes of price setting? Should relaxing the minimum operating level be limited to block-loaded fast-start

[1] Although the discussion herein focuses on RTO/ISO markets, similar technical and operational limitations impact the efficient commitment of resources by electric utilities operating in other market structures, such as vertically integrated utilities.

[2] Other efforts, like Staff's annual meeting with RTO/ISO operations staff and the annual market software conference, are intended to make progress on these longer term issues. *See http://www.ferc.gov/industries/electric/indus-act/market-planning.asp.*

[3] *See, e.g.,* Operator Actions Workshop, Docket No. AD14–14–000, Tr. 180:8–183:4 (Dec. 9, 2014); Uplift Workshop, Docket No. AD14–14–000, Tr. 168:1–16 (Sept. 8, 2014). For this purpose we are defining uplift credits as payments made to resources whose commitment and dispatch by an RTO/ISO result in a shortfall between the resource's offer and the revenue earned through market clearing prices.

[4] FERC, *Staff Analysis of Uplift in RTO and ISO Markets,* Docket No. AD14–14–000, at 21–28 (Aug. 2014), *available at http://www.ferc.gov/legal/staff-reports/2014/08-13-14-uplift.pdf.*

[5] FERC, *Price Formation in Organized Wholesale Electricity Markets: Staff Analysis of Operator-Initiated Commitments in RTO and ISO Markets,* Docket No. AD14–14–000, at 28–30 (Dec. 2014), *available at http://www.ferc.gov/legal/staff-reports/2014/AD14-14-operator-actions.pdf.*

[6] *Id.*

[7] Operator Actions Workshop, Docket No. AD14–14–000, Tr. 282:9–25 (Dec. 9, 2014).

resources, or should relaxation be available to a larger set of resources?

b. What are the merits of expanding the set of costs included in the energy component of LMP (*i.e.,* start-up and no-load costs)? What factors should be considered when expanding the set of costs included in the energy component of LMP? If the start-up and no-load costs of block-loaded fast-start resources are included in the LMP, how should they be included? For example, should start-up costs only be included during intervals when the resource starts up?

c. Should off-line resources be eligible to set the LMP? If so, should start-up and no-load costs be included in the price, or just incremental energy costs?

4. Settlement Intervals

Panelists at the Shortage Pricing/Mitigation and Operator Actions Workshops generally supported sub-hourly, rather than hourly, settlement intervals as providing better incentives for resources to perform during shortage events and to make investments to enhance resource flexibility.[8]

a. What are the advantages and disadvantages of moving to sub-hourly settlements for the real-time market as they relate to price signals, market efficiency, and operations?

b. What metering and RTO/ISO software changes would be needed to change settlement intervals from hourly to sub-hourly for the real-time market, and how long would these changes take to implement? Are there significant costs to RTOs/ISOs, and to market participants, of such changes? Are there any other impediments to adjusting settlement intervals?

c. What are the advantages and disadvantages of changing from hourly to sub-hourly settlements in the day-ahead market?

5. New Products To Incent Flexibility

Flexible resources that are capable of ramping up and down and/or starting up quickly provide value to the electric system. Panelists at the Operator Actions Workshop said that market designs which reward flexibility may stimulate investment in flexible capacity and provide resources more incentive to submit flexible offers.[9] One panelist at the Operator Actions Workshop commented that existing market rules can create disincentives for resources to submit supply offers that reflect the full flexibility (for example, ramp rate, minimum run time, minimum operating level, maximum operating level, minimum down time) of their resources.[10] In addition, panelists at the workshops discussed the need for locational reserve products to better reflect local needs for flexibility.

a. How do RTOs/ISOs currently ensure that they will have sufficient flexibility during real-time? Specifically, to what extent are residual unit commitments used to acquire anticipated needed flexibility?

b. How are flexible resources compensated for the value that they provide to the system? Does that compensation reflect the value? Why or why not? If compensation to flexible resources does not reflect their value, how should RTOs/ISOs compensate flexible resources for the service they provide?

c. What are the tradeoffs between sending a price signal through a short-duration shortage event versus establishing a ramping product that is priced separately?

d. What are the tradeoffs among procuring flexibility through unit commitments (*e.g.,* headroom requirements) rather than through the ten-minute reserve products or through ramp products?

e. Does allowing combined-cycle natural gas resources to submit different offers for different configurations facilitate more efficient price formation?[11] What are the advantages and disadvantages to generators of bidding these configurations?

6. Operating Reserve Zones

A lack of sufficiently granular reserve zones could be muting efficient price signals. At the Shortage Pricing/Mitigation workshop, the NYISO panelist noted that NYISO is considering establishing a new reserve zone[12] and the PJM Interconnection, L.L.C. (PJM) external market monitor indicated that he believed PJM's shortage pricing rules were not sufficiently locational. For instance, last year PJM experienced shortages in the American Transmission System, Inc. (ATSI) footprint that did not trigger shortage pricing because the ATSI zone is not a reserve zone.[13]

a. How does the establishment, elimination or reconfiguration of reserve zones affect price formation? What should the triggers be? From experience, do the RTOs/ISOs have the appropriate reserve zones defined? Are additional, fewer, or different reserve zones needed?

b. Are processes in place for adding, removing, or changing reserve zones adequate for efficient price formation?

7. Uplift Allocation

Uplift allocation rules might impact resource participation decisions in RTO/ISO markets. For example, uplift allocation rules might incent participation in day-ahead markets or drive decisions on how to use financial products.

a. Do uplift allocation rules reflect cost causation or mute potential investment signals? If so, how?

b. What philosophy should govern uplift allocation? Do any of the RTOs/ISOs have a best practice? What is it and why is it a best practice?

c. Should uplift allocation categories reflect the reasons for committing a unit and incurring uplift? Would disclosing these reasons through publicly available data improve uplift transparency and provide information to facilitate modifications of the allocation of uplift costs?

8. Market and Modeling Enhancements

At the Uplift and Operator Actions Workshops, panelists highlighted various drivers of persistent, concentrated uplift and operator actions, including constraints that are not incorporated into market models.[14] Panelists also noted that certain constraints are difficult to model accurately or to incorporate into both the day-ahead and real-time market models.[15] These include local voltage constraints and reliability constraints such as N–1–1 contingency constraints.[16]

a. Assuming that RTOs/ISOs should improve their market models to better reflect the cost of honoring reliability constraints in energy and ancillary services market clearing prices, what types of constraints should RTOs/ISOs include in their market models, and

[8] *See* Operator Actions Workshop, Docket No. AD14–14–000, Tr. 253:23–254:2 (Dec. 9, 2014); Scarcity and Shortage Pricing, Offer Mitigation and Offer Price Caps Workshop, Docket No. AD14–14–000, Tr. 52:21–22, 53:11–16, 54:10–17 (Oct. 28, 2014).

[9] Operator Actions Workshop, Docket No. AD14–14–000, Tr. 149:7–11; 151:3–6; 291:6–8 (Dec. 9, 2014).

[10] *See id.* at 291:9–22.

[11] *See, e.g., Cal. Indep. Sys. Operator Corp.,* 132 FERC ¶ 61,087, *order on compliance filing,* 132 FERC ¶ 61,273 (2010).

[12] Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop, Docket No. AD14–14–000, Tr.21:16–21 (Oct. 28, 2014).

[13] *Id.* at 133:6–15.

[14] *See, e.g.,* Uplift Workshop, Docket No. AD14–14–000, Tr. 49:7–11 (Sept. 8, 2014); Operator Actions Workshop, Docket No. AD14–14–000, Tr. 16:5–18 (Dec. 9, 2014).

[15] *See, e.g.,* Uplift Workshop, Docket No. AD14–14–000, Tr. 192:12–18 (Sept. 8, 2014); Operator Actions Workshop, Docket No. AD14–14–000, Tr. 21:7–23 (Dec. 9, 2014).

[16] An N–1–1 contingency constraint is a constraint to ensure that following any single contingency (N–1), the system can withstand any other contingency (N–1–1).

what types of constraints should be handled by manual commitments? Of those reliability constraints that should be in the market models, which reliability constraints should RTOs/ISOs prioritize?

b. In 2013, ISO New England Inc. (ISO–NE) increased its replacement reserve requirement to ''reduce the need to schedule additional resources above the load and reserve requirements'' in its Reserve Adequacy Analysis.[17] PJM has a similar proposal to increase day-ahead and real-time reserve requirements when extreme weather is expected.[18] In what circumstances can such practices improve efficiency of price formation?

c. Do transmission constraint relaxation penalty factors improve the efficiency of price formation? [19] If so, should these penalty factors be allowed to set the energy price if a transmission constraint is relaxed?

d. Are there any new constraints that represent other physical characteristics of the system (with corresponding penalty factors), such as N–1–1 reliability constraints, that could be included in the model to improve the efficiency of price formation? If so, what types of constraints should be included and how should the penalty factors be determined?

e. Should RTOs/ISOs create new products that procure the capacity necessary to address reliability constraints that cannot be captured in market models? If so, what should these products look like, and what process should RTOs/ISOs use to design these products?

f. In some cases, creating new products to satisfy system needs (*e.g.,* ramp capability, local reliability product, or additional reserves to account for operational uncertainty) may amount to procuring a level of spinning or non-spinning reserves above the mandatory reliability requirement. If the ''new product'' can be satisfied by an existing ancillary service product (*e.g.,* ten minute reserves), is it necessary to create a new and separate product with its own price and co-optimization? Rather than developing a new product, could RTOs/ISOs change the cost allocation of any additional ancillary services procured above the mandatory reliability requirement?

9. Shortage Prices

In the questions below, the term ''shortage pricing'' refers generically to any pricing action taken in response to a shortage event. Not all RTOs/ISOs use this phrase in the same way.[20] In responding to the questions below, please define terms and distinguish between ''shortage pricing'' and ''scarcity pricing,'' if such a distinction is intended.

a. What principles should be used to establish shortage price levels? Should there be one price for any shortage or a set of escalating prices for greater levels of shortage? Is it important to have shortage price levels consistent across adjacent RTOs/ISOs to avoid seams issues?

b. What are the advantages and disadvantages of implementing shortage pricing in the day-ahead market as well as in the real-time market? If shortage pricing is established only in the real-time market but not in the day-ahead market, are other policies needed to facilitate price convergence between the day-ahead and real-time markets during periods of shortage? If so, what are these other policies? If not, why not?

10. Transient Shortage Events

At the Shortage Pricing/Mitigation Workshop, panelists stated different positions regarding pricing transient, or short-duration, shortage events.[21] Transient shortage events are shortage events that last only a short time, perhaps as short as one or two five-minute dispatch intervals.[22] For instance, PJM's market clearing process will not invoke shortage pricing if it can resolve the shortage within a certain time.[23] However, even transient shortage events need a price signal to provide incentives to develop capabilities to respond to the shortage.[24]

a. Should there be a minimum duration for a shortage event before it triggers shortage pricing? Why or why not? How would one determine that minimum time, and how does it relate to the settlement interval?

b. Do RTO/ISO rules regarding transient shortage events result in appropriate price signals? Why or why not? To the extent possible, please provide empirical evidence supporting your answer.

c. Should treatment of transient shortages be consistent across all RTOs/ISOs? Why or why not?

11. Interchange Uncertainty

Due to the lag between price signals and interchange scheduling for import and export transactions, trade between RTOs/ISOs can result in volatile prices and variable system conditions because the ability of importers to schedule flows across the seam can lag behind actual system needs, creating uncertainty in interchange and contributing to operational issues.[25] Several RTOs/ISOs have instituted new rules, such as NYISO's and PJM's Coordinated Transaction Scheduling (CTS), which attempt to better coordinate interchange schedules and price signals in order to improve inter-RTO/ISO flows.

a. What can the RTOs/ISOs do to reduce interchange uncertainty? Does CTS help to reduce the uncertainty in interchange created by the lag between price posting and interchange schedules? Does the ability to reduce uncertainty depend on whether all interchange spread bids are incorporated into the RTO/ISO dispatch model (as proposed for the CTS implementation between NYISO and ISO–NE) rather than simply allowing interchange spread bids on a voluntary basis (as proposed for the CTS implementation between NYISO and PJM)? Are there other steps that should be taken to reduce interchange uncertainty?

b. What information do market participants need to better respond to interchange price signals?

12. Next Steps

a. Are there other price formation issues that, if addressed, would improve energy and ancillary services price formation in RTO/ISO markets? What are they?

b. What are the highest-priority price formation issues to address? Is the priority of issues different in different RTO/ISO markets? If so, what are the priorities for each RTO/ISO and are the RTOs/ISOs currently addressing those issues sufficiently?

[FR Doc. 2015–01139 Filed 1–22–15; 8:45 am]

BILLING CODE 6717–01–P

[17] ISO–NE., Transmittal Letter, Docket No. ER13–1736–000 at 10 (filed June 20, 2013).

[18] PJM Tariff Filing, Docket No. ER15–643–000 (filed December 17, 2014).

[19] Transmission constraint penalty factors are parameters within the market model that place a cost, known as a penalty factor, on a transmission constraint. These parameters allow the model to ''relax'' the transmission constraint for a short time at a cost equal to the penalty factor, allowing flow over a given transmission element to exceed its normal limit.

[20] *See, e.g.,* Scarcity and Shortage Pricing, Offer Mitigation and Offer Price Caps Workshop, Docket No. AD14–14–000, Tr. 20:1–21:7 (Oct. 28, 2014).

[21] *Id.* at 38:19–51:8.

[22] *Id.* at 40:19–24; 41:7–10; 44:16–23; 46:1–6.

[23] *Id.* at 48:5–12.

[24] *Id.* at 47:7–11.

[25] See, *e.g.,* the experience of Midcontinent System Operator, Inc. and PJM on July 6, 2012 as discussed in FERC, *Price Formation in Organized Wholesale Electricity Markets: Staff Analysis of Shortage Pricing,* Docket No. AD14–14–000, at 21–22 (Oct. 2014), *available at http://www.ferc.gov/legal/staff-reports/2014/AD14-14-pricing-rto-iso-markets.pdf.*

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP15–101–000, RP15–101–001]

Florida Gas Transmission Company, LLC; Notice of Technical Conference

Take notice that a technical conference will be held on Thursday, February 5, 2015, at 10:00 a.m. (Eastern Standard Time), in a room to be designated at the offices of the Federal Energy Regulatory Commission (Commission), 888 First Street NE., Washington, DC 20426.

At the technical conference, the Commission Staff and the parties to the proceeding should be prepared to discuss all issues set for technical conference as established in the November 28, 2014 Order.[1]

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

All interested persons are permitted to attend. For further information please contact Robert McLean at (202) 502–8156 or email *Robert.McLean@ferc.gov.*

Dated: January 16, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01142 Filed 1–22–15; 8:45 am]

BILLING CODE 6717–01–P

[1] *Florida Gas Transmission Company, LLC,* 149 FERC ¶ 61,188 (2014).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–9921–13]

Access to Confidential Business Information by Accelera Solutions, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Accelera Solutions, Inc. (Accelera) of Fairfax, VA, to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data occurred on or about 1 December 2014.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Scott Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8257; email address: *sherlock.scott@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2003–0004, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

Under EPA contract number EP–D–11–075, task order numbers 0012 and 0013, contractor Accelera Solutions, Inc. of 12150 Monument Dr., Suite 800, Fairfax, VA, is assisting the Office of Pollution Prevention and Toxics (OPPT) in the operations, maintenance, and infrastructure support for the CBI Local Area Network (CBI LAN). This includes the existing hardware, associated operating systems, security artifacts, and commercial off the shelf products, currently in use on the OPPT CBI LAN and Adminstrative LAN. In addition, the contractor is providing assistance on the virtual desktop solution, which will streamline the process of bilateral use of CBI and business processes, to support headquarters and region offices. Furthermore, they are assisting in establishing and setting up remote access to the OPPT CBI LAN and providing institutional expertise in secure virtual environments.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number EP–D–11–075, task order numbers 0012 and 0013, Accelera required access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. Accelera personnel were given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA has provided Accelera access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract is taking place at EPA Headquarters in accordance with EPA's ''TSCA CBI Protection Manual.''

Access to TSCA data, including CBI, will continue until June 19, 2016. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

Accelera personnel have signed nondisclosure agreements and were briefed on appropriate security procedures before they were permitted access to TSCA CBI.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: January 14, 2015.

Pamela S. Myrick,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2015–01169 Filed 1–22–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2014–0836; FRL–9920–76]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA) to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN); an application for a test

marketing exemption (TME), both pending and/or expired; and a periodic status report on any new chemicals under EPA review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document covers the period from November 3, 2014 to November 28, 2014.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before February 23, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2014–0836, and the specific PMN number or TME number for the chemical related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: LaVerne Jones, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–6382; email address: *Jones.LaVerene@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the PMNs addressed in this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the Agency taking?

This document provides receipt and status reports, which cover the period from November 3, 2014 to November 28, 2014, and consists of the PMNs and TMEs both pending and/or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. What is the Agency's authority for taking this action?

Section 5 of TSCA requires that EPA periodical publish in the **Federal Register** receipt and status reports, which cover the following EPA activities required by provisions of TSCA section 5.

EPA classifies a chemical substance as either an ''existing'' chemical or a ''new'' chemical. Any chemical substance that is not on EPA's TSCA Inventory is classified as a ''new chemical,'' while those that are on the TSCA Inventory are classified as an ''existing chemical.'' For more information about the TSCA Inventory go to: *http://www.epa.gov/opptintr/newchems/pubs/inventory.htm.* Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a), for ''test marketing'' purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME and to publish in the **Federal Register** periodic status reports on the new chemicals under review and the receipt of NOCs to manufacture those chemicals.

IV. Receipt and Status Reports

In Table I. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: The EPA case number assigned to the PMN, the date the PMN was received by EPA, the projected end date for EPA's review of the PMN, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the PMN, and the chemical identity.

TABLE I—44 PMNS RECEIVED FROM 11/3/14 TO 11/28/14

Case No.	Received date	Projected notice end date	Manufacturer/Importer	Use	Chemical
P–15–0075	11/4/2014	2/2/2015	DIC International (USA) LLC.	(G) A component of exterior, automotive and aero paint.	(G) Siliicone Acrylic/Methacrylic Polymer.
P–15–0078	11/5/2014	2/3/2015	CBI	(G) Coating material for electronics.	(G) Polyamic acid.
P–15–0076	11/5/2014	2/3/2015	CBI	(G) Coating material for electronics.	(G) Polyamic acid.

TABLE I—44 PMNS RECEIVED FROM 11/3/14 TO 11/28/14—Continued

Case No.	Received date	Projected notice end date	Manufacturer/Importer	Use	Chemical
P–15–0077	11/5/2014	2/3/2015	CBI	(G) Coating material for electronics.	(G) Polyamic acid.
P–15–0080	11/6/2014	2/4/2015	CBI	(G) Asphalt additive	(G) Fatty acid rxn products with aminoalkyamines.
P–15–0079	11/6/2014	2/4/2015	CBI	(G) Asphalt additive	(G) Fatty acid rxn products with aminoalkylhydroxyamines.
P–15–0082	11/7/2014	2/5/2015	CBI	(G) Back coating agent	(G) Siloxanes and silicones, alkyl group-terminated, polymers with carboxylic acid and substituted carbopolycyclic ester.
P–15–0083	11/7/2014	2/5/2015	CBI	(G) Polyurethane resin	(G) Siloxanes and silicones, dialkyl, substituted alkyl group-terminated, polymers with alkanediol, alkyldiisocyanate, dialkyl carbonate, substituted heteromonocycle, alkanediol, diamine, substituted alkylpropanoic acid, substituted trialkyl carbomonocycle, alkylene bis [substituted carbomonocycle] and substituted alkanediol, compounds (compds), with trialkylamine.
P–15–0084	11/7/2014	2/5/2015	Compass Chemical International LLC.	(G) Subsurface chemical injection valves, side pocket mandrels.	(G) Aminophosphonate salt.
P–15–0081	11/7/2014	2/5/2015	CBI	(G) Open, dispersive use. Ingredient in liquid paint coating.	(G) Polysilanol, polymer with 2-(chloromethyl)oxirane and 4,4'-(1-methylethylidene)bis[phenol], alkoxylated.
P–15–0085	11/12/2014	2/10/2015	CBI	(G) Chemical reactant	(G) Polyol polyester.
P–15–0087	11/13/2014	2/11/2015	CBI	(G) Intermediate	(G) Substituted heteromonocyclic carboxylic acid salt.
P–15–0088	11/13/2014	2/11/2015	CBI	(G) Coatings	(G) Glycidoxy functional siloxane.
P–15–0091	11/14/2014	2/12/2015	CBI	(G) Additive in coatings	(G) Modified polyalkyleneglycolphosphate.
P–15–0092	11/14/2014	2/12/2015	CBI	(G) Acrylic pressure sensitive adhesive.	(G) Acrylic polymer.
P–15–0093	11/14/2014	2/12/2015	CBI	(S) Intermediate	(G) Aromatic polymer salt.
P–15–0094	11/14/2014	2/12/2015	CBI	(G) Polymer coating	(G) Polyaromatic amine.
P–15–0095	11/14/2014	2/12/2015	CBI	(G) Radiation cured inks	(G) Urethane Acrylate.
P–15–0096	11/14/2014	2/12/2015	Colonial chemical, INC..	(S) Hard surface cleaner in high caustic solutions.	(S) D-glucopyranose, oligomeric, decyl octyl glycosides, polymers with epichlorohydrin, glycidyl ethers, dihydrogen phosphates, sodium salts.
P–15–0097	11/14/2014	2/12/2015	Colonial Chemical, INC..	(S) Hard surface cleaner in high caustic solutions.	(S) D-glucopyranose, oligomeric, C_{10-16}-alkyl glycosides, polymers with epichlorohydrin, glycidyl ethers, dihydrogenphosphates, sodium salts.
P–15–0098	11/14/2014	2/12/2015	CBI	(G) Intermediate in production of HFC.	(G) Hydrochlorofluorocarbon.
P–15–0099	11/18/2014	2/16/2015	CBI	(G) Textile coating	(G) Blocked polyisocyanate.
P–15–0100	11/19/2014	2/17/2015	CBI	(G) Raw material in the manufacture of an intermediate chemical.	(G) Aliphatic amino alcohol.
P–15–0102	11/21/2014	2/19/2015	CBI	(G) Filter media for heavy metal removal from water.	(G) Alkali titanosilicate salt.
P–15–0103	11/21/2014	2/19/2015	Shin-Etsu MicroSi.	(G) Gravure ink	(G) Copolymer of vinyl chloride, vinyl carboxylate, acrylic acid, and acrylamide.
P–15–0104	11/21/2014	2/19/2015	Otis Institute, Inc	(S) The first chemical synthesis step in producing a down converting phosphor solution for use in an optical filter.	(G) Alkanoic acid, reaction products with cadmium selenide and 1-decanamine.
P–15–0106	11/21/2014	2/19/2015	CBI	(G) Mining and fuel additive	(G) Alkene reaction and distillation by-products and residues.
P–15–0108	11/24/2014	2/22/2015	Miwon North America, INC.	(S) Resin for industrial coating	(G) Aliphatic urethane acrylate.

TABLE I—44 PMNS RECEIVED FROM 11/3/14 TO 11/28/14—Continued

Case No.	Received date	Projected notice end date	Manufacturer/Importer	Use	Chemical
P–15–0109	11/24/2014	2/22/2015	CBI	(G) Open, non-dispersive	(G) Reaction product of a mixture of aromatic dianhydrides and aliphatic esters with an aromatic diamine.
P–15–0110	11/24/2014	2/22/2015	CBI	(G) Processing aid for vegetable oil refining for production of biofuel.	(S) Phosphoinositide phospholipase C.
P–15–0111	11/24/2014	2/22/2015	Huntsman	(G) Hardener for coating systems	(G) Fatty acids, tall-oil, reaction products with an ether and triethylenetetramine.
P–15–0114	11/25/2014	2/23/2015	3M	(S) Dielectric medium; heat transfer.	(S) 2-Butanone, 1,1,1,3,4,4,4-heptafluoro-3-(trifluoromethyl).
P–15–0115	11/26/2014	2/24/2015	CBI	(G) Electric molding	(G) Phenol-biphenyl-formaldehyde polycondensate.
P–15–0116	11/26/2014	2/24/2015	CBI	(G) Electric molding	(G) Phenol-biphenyl-formaldehyde polycondensate.
P–15–0119	11/26/2014	2/24/2015	Miwon North America, INC.	(S) Resins for Industrial coating ...	(G) Polyester acrylate.
P–15–0120	11/28/2014	2/26/2015	Miwon North America, INC.	(S) Resins for industrial coating ...	(G) Monofuntional acrylate.
P–15–0121	12/1/2014	3/1/2015	CBI	(G) Sulfide scavenger	(G) Formaldehyde polymer with amine mixture.
P–15–0123	12/1/2014	3/1/2015	CBI	(S) Fragrance ingredient for use in fragrances for soaps, detergents, cleaners and other household products.	(G) Alkyl substituted 5-benzofuranol.
P–15–0122	12/2/2014	3/2/2015	CBI	(G) Photo catalyst	(G) Bicycloamine.
P–15–0124	12/3/2014	3/3/2015	Organic Dyestuffs Corporation.	(G) Typical use 4 this product is hair dye.	(G) Basic orange 31.
P–15–0128	12/4/2014	3/4/2015	Henkel Corporation.	(S) Chemical intermediate to cureable monomer.	(S) 2-Propenoic acid,6-[[3-(4-benzoylphenox-y)propyl]thio]hexyl ester.
P–15–0125	12/4/2014	3/4/2015	Cardolite Corporation.	(G) Additive blended into final epoxy coating formulation.	(G) Cashew nutshell liquid (liq), polymer reacted with hydrocarbons..
P–15–0130	12/8/2014	3/8/2015	CBI	(G) Surfactant for industrial use ...	(G) Ethoxylated alkyl chloride.
P–15–0129	12/8/2014	3/8/2015	CBI	(G) Intermediate in the manufacture of a surfactant.	(G) Ethoxylated alkyl chloroformate.

In Table II. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs received by EPA during this period: The EPA case number assigned to the NOC, the date the NOC was received by EPA, the projected end date for EPA's review of the NOC, and chemical identity.

TABLE II—36 NOCS RECEIVED FROM 11/03/14 TO 11/28/14

Case No.	Received date	Commencement notice end date	Chemical
P–14–0104	11/6/2014	11/3/2014	(G) Glycerides, C_8-C_{18} and C_{18} unsaturated, from algal fermentation.
P–14–0312	11/6/2014	11/3/2014	(G) Algal biomass from fermentation.
P–14–0592	11/6/2014	11/5/2014	(G) Aromatic carboxylic acid polymer with aminoalkyl-alkyldiamine, cycloalkyldiamine, alkyldiol, alkyldioic acid, alkyl diol, dihydoxylalkylcarboxylic acid, cycloalkyl diisocyanate, compound with dialkylamino alcohol.
P–14–0205	11/7/2014	10/10/2014	(G) Fatty acid imidazolines.
P–14–0020	11/10/2014	11/7/2014	(G) Heteropolycyclic diacrylate.
P–13–0830	11/11/2014	10/14/2014	(G) Dicarboxylic acid, polymer with cycloalkyl alkyl-2-alkennoate, *N*-(dimethyl-oxoalkyl)-2-alkyenamide, alkanediol, -hydro—hydroxypoly[oxy-alkanediyl], 3-hydroxy-2-(hydroxymethyl)-alkyl carboxylic acid, isocyanato-(isocyanatoalkyl)-trimethylcycloalkane and methylalkenoate, alkyl hydroperoxideinitiated, compounds with tralkyllamine.
P–13–0832	11/11/2014	10/14/2014	(G) Dicarboxylic acid, polymer with cycloalkyl alkyl-alkenoate, *N*-(dialkyl-oxoalkyl)-alkenamide, alkanediol, hydroxy-(hydroxyalkyl)-alkyl carboxylic acid, methylenebis[isocyanatocycloalkane] and alkyll alkenoate, alkyl hydroperoxide-initiated, compounds with dialkylalkylamine.
P–14–0603	11/11/2014	11/10/2014	(S) Bismuth nitrate oxide.
P–14–0716	11/13/2014	11/4/2014	(G) Fatty acids, dimers, polymers with alkanoic acid, alkylene oxides, substituted alkanediol.
P–14–0735	11/13/2014	11/10/2014	(G) Ultra Violet-curable urethane acrylate.

TABLE II—36 NOCS RECEIVED FROM 11/03/14 TO 11/28/14—Continued

Case No.	Received date	Commencement notice end date	Chemical
P–14–0618	11/14/2014	10/31/2014	(G) Substituted acrylamide.
P–13–0141	11/14/2014	11/6/2014	(G) Alkyl amines polymer with polyglycol ether, and bis a epoxy reaction products with aromatic epoxies.
P–14–0351	11/18/2014	11/5/2014	(G) Epoxy compounded acrylate polymer.
P–14–0340	11/18/2014	11/17/2014	(G) 2-Propenoic acid, 2-methyl-, functionalized alkyl ester polymer with butyl 2-propenoate and methyl 2-methyl-2-propenoate.
P–14–0731	11/18/2014	11/17/2014	(S) Hexanedioic acid, polymer with 2,2'-(methylimino)bis[ethanol], di-(9z)-9-octadecenoate (ester) compound with chloromethane.
P–14–0258	11/19/2014	10/9/2014	(S) Distillates (fischer-tropsch) heavy, $C_{18–50}$, branched and linear.
P–14–0424	11/19/2014	11/9/2014	(S) Siloxanes and silicones, di-me, mono[[dimethoxy[3-[(1-oxo-2-propen-1-yl)oxy]propyl]silyl]oxy]-terminated.
P–13–0793	11/19/2014	11/11/2014	(G) Functionalized carbon nanotubes.
P–14–0654	11/20/2014	11/20/2014	(S) D-glucopyranose, oligomeric, $C_{10–16}$-alkyl glycosides, polymers with epichlorohydrin, 3-[bis(2-hydroxyethyl)amino]-2-hydroxypropyl ethers, sodium 2-chloroacetate (1:1)-quarternized, inner salts.
P–14–0600	11/21/2014	10/21/2014	(G) Tall oil polymd., polymer with aliphatic and alicyclic amines.
P–12–0193	11/21/2014	10/30/2014	(G) Maleated resin.
P–14–0316	11/21/2014	10/30/2014	(G) Substituted bismuth.
P–14–0474	11/21/2014	10/30/2014	(G) Maleated resin, half-ester.
P–14–0629	11/21/2014	11/17/2014	(S) Fatty acids, C_{18}-unsaturated, dimers mixed esters with 2-octyldodecanol and polyethylene polypropylene glycol mono butyl ether.
P–14–0585	11/24/2014	10/30/2014	(G) Anthracene derivative.
P–14–0463	11/24/2014	11/23/2014	(G) Butanedioic acid, monopolyisobutylene derivs., bis[2-[(2-hydroxyethyl)alkylamino)alkylamino]ethyl] esters.
P–14–0625	11/25/2014	10/30/2014	(G) Substituted alkylnitrile.
P–14–0650	11/26/2014	11/6/2014	(G) Alkylphenol polymer with bisphenol A, epichlorohydrin, carboxylic acid, branced alkylamine and polyethylene glycol.
P–14–0762	11/26/2014	11/25/2014	(S) Fatty acids, $C_{16–18}$, esters with ethylene glycol.
P–14–0774	12/1/2014	11/24/2014	(G) Fatty acids, long chain alkyl and alkenyl, propoxylated.
P–14–0562	12/2/2014	11/19/2014	(G) Hdryoxylated vegetable oil.
P–14–0628	12/3/2014	11/14/2014	(G) Poly (oxy-1,2-ethanediyl), .alpha.-hydro-.omega.-hydroxy-, polymer with alkyl diisocyanate, fatty alcohol.
P–14–0608	12/3/2014	11/25/2014	(G) Alkoxy halide metal complexes.
P–14–0421	12/4/2014	11/19/2014	(G) Isocyanate terminated polyurethane polymer.
P–14–0203	12/7/2014	11/20/2014	(G) Fatty acid imidazoline.
P–14–0729	7/24/2014	10/22/2014	(G) Modifier for electronic materials.

If you are interested in information that is not included in these tables, you may contact EPA as described in Unit III. to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: December 23, 2014.

Deena Watson-Vann,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2015–01173 Filed 1–22–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9019–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 01/12/2015 Through 01/16/2015 Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20150015, Final EIS, BPA, ID, Hooper Springs Transmission Project, Review Period Ends: 02/23/2015, Contact: Tish Eaton 503–230–3469.

EIS No. 20150016, Final EIS, FHWA, FL, SR 997/SW 177th Avenue/Krome Avenue South, Contact: Cathy Kendall 850–553–2225.

Under MAP–21 section 1319, FTA has issued a single FEIS and ROD. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

EIS No. 20150017, Draft EIS, USN, NV, Military Readiness Activities at Fallon Range Training Complex, Comment Period Ends: 03/09/2015, Contact: Amy Kelley 619–532–2799.

EIS No. 20150018, Draft EIS, FHWA, TX, SH 249 Extension, Comment Period Ends: 03/09/2015, Contact: Carlos Swonke 512–416–2734.

Amended Notices

EIS No. 20150011, Draft EIS, BR, CA, North Valley Regional Recycled Water Program, Comment Period Ends: 03/03/2015, Contact: Benjamin Lawrence (559) 487–5039.

Revision to FR Notice Published 01/16/2015; Extended Comment Period from 03/03/2015 to 03/10/2015.

Dated: January 20, 2015.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2015–01175 Filed 1–22–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[3060–1147]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before March 24, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1147.

Title: Wireless E911 Location Accuracy Requirements.

Form Nos.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, state, local or tribal government and individuals or household.

Number of Respondents: 4,294 Respondents; 4,510 Responses.

Estimated Time per Response: 1 hour to 8 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for this collection is contained in 47 U.S.C. Sections 151, 154, and 332 of the Communications Act of 1934, as amended.

Total Annual Burden: 31,668 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: Not applicable.

Nature and Extent of Confidentiality: No confidentiality is required for this collection.

Needs and Uses: The Commission is seeking Office of Management and Budget (OMB) approval for an extension of this information collection (no change in the reporting requirement).

The Commission has adjusted its previous burden estimates. The total annual burden has been reduced by 21,464 hours since 2012 because of fewer respondents and responses.

The Commission's *Third Report and Order* in PS Docket No. 07–114 adopted a rule, providing that new CMRS network providers, meeting the definition of covered CMRS providers in Section 20.18 and deploying new stand-alone networks subsequent to the effective date of the *Third Report and Order* that are not an expansion or upgrade of an existing CMRS network, must meet from the start the handset-based location accuracy standard in delivering emergency calls for Enhanced 911 service. The adopted rule requires that the new stand-alone CMRS providers in delivering emergency calls for Enhanced 911 service, must satisfy the handset-based location accuracy standard at either a county-based or Public Safety Answering Point (PSAP)-based geographic level. Additionally, in accordance with the pre-existing requirements for CMRS providers using handset-based location technologies, new stand-alone CMRS providers are permitted to exclude up to 15 percent of the counties or PSAP areas they serve due to heavy forestation that limits handset-based technology accuracy in those counties or areas but are required to file an initial list of the specific counties or portions of counties where they are utilizing their respective exclusions.

A. *Updated Exclusion Reports.* Under the information collection, and pursuant to current rule section 20.18(h), new stand- alone CMRS providers and existing CMRS providers that have filed initial exclusion reports are required to file reports informing the Commission of any changes to their exclusion lists within thirty days of discovering such changes. The permitted exclusions properly but narrowly account for the known technical limitations of either the handset-based or network-based location accuracy technologies chosen by a CMRS provider, while ensuring that the public safety community and the public at large are sufficiently informed of these limitations.

B. *Confidence and Uncertainty Data.* Under the information collection, and pursuant to current rule section 20.18(h), all CMRS providers and other entities responsible other responsible for transporting confidence and uncertainty data between the wireless carriers and PSAPs, including LECs, CLECs, owners of E911 networks, and emergency service providers (collectively, System Service Providers (SSPs)) must continue to provide confidence and uncertainty data of wireless 911 calls to Public Safety Answering Points (PSAP) on a per call basis upon a PSAP's request. New stand-alone wireless carriers also incur this obligation. The transport of the confidence and uncertainty data is needed to ensure the delivery of accurate location information with E911 service.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2015–01157 Filed 1–22–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[3060–0207]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–

3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before March 24, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0207.

Title: Part 11—Emergency Alert System (EAS).

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit; not-for-profit institutions; and state, local or tribal government.

Number of Respondents and Responses: 3,569,028 respondents; 3,569,028 responses.

Estimated Time per Response: .0229776 hours.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Voluntary response for business or other for-profit and not-for-respondents. Mandatory response for state, local or tribal government. Statutory authority for this information collection is contained in *47 U.S.C sections 154(i)* and *606* of the Communications Act of 1934, as amended.

Total Annual Burden: 82,008 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission seeking and extension of this information collection in order to obtain the full three year approval from OMB. There are no changes in any of the reporting and/or recordkeeping requirements. There is no change to the Commission's previous burden estimated.

The Commission established a voluntary electronic method of complying with the reporting that EAS participants must complete as part of the national EAS test. This electronic submission system will impose a lesser burden on EAS test participants because they can input electronically (via a web-based interface) the same information into a confidential database that the Commission would use to monitor and assess the test. Test participants would submit the identifying data prior to the test date. On the day of the test, EAS participants would be able to input immediate test results. They would input the remaining data called for by our reporting rules within the 45 day period. Structuring an electronic reporting system in this fashion will allow the participants to populate the database with known information prior to the test, and thus be able to provide the Commission with actual test data, both close to real-time and within a reasonable period in a minimally burdensome fashion.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer.

[FR Doc. 2015–01162 Filed 1–22–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[3060–1122]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before March 24, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1122.

Title: Preparation of Annual Reports to Congress for the Collection & Expenditure of Fees or Charges for Enhanced 911 (E911) Services under the NET 911 Improvement Act of 2008.

Form No.: Not applicable.

Type of Review: Extension of a currently approved collection.

Number of Respondents and Responses: 56 respondents; 56 responses.

Estimated Time per Response: 55 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in 47 U.S.C. Sections 201(b), 219(b) and 220 of the Communications Act of 1934, as amended.

Total Annual Burden: 3,080 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: No impact.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Federal Communications Commission (Commission) is directed by statute (New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. 110–283, 122 Stat. 2620 (2008) (NET 911 Act)) to submit an annual ''Fee Accountability Report'' to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representative ''detailing the status in each State of the collection and distribution [of] fees or charges'' for ''the support or implementation of 911 or enhanced 911 services,'' including ''findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose other than the purpose for which any such fees or charges are specified.'' (NET 911 Act, 122 Stat. at 2622) The statute directs the Commission to submit its first annual report within one year after the date of enactment of the NET 911 Act. Given that the NET 911 Act was enacted on July 23, 2008, the first annual report was due to Congress on July 22, 2009.

Description of Information Collection: The Commission will collect information for the annual preparation of the Fee Accountability Report via a web-based survey that appropriate State officials (*e.g.,* State 911 Administrators and Budget Officials) will be able to access to submit data pertaining to the collection and distribution of fees or charges for the support or implementation of 911 or enhanced 911 services, including data regarding whether their respective state collects and distributes such fees or charges, the nature (*e.g.,* amount and method of assessment or collection) and the amount of revenues obligated or expended for any purpose other than the purpose for which any such 911 or enhanced 911 service fees or charges are specified. Consistent with Sections 6(f) of the NET 911 Act, the Commission will request that state officials report this information with respect to the fees and charges in connection with implementation of 911 or E–911 services within their state, including any political subdivision, Indian tribe and/or village and regional corporation serving any region established pursuant to the Alaska Native Claims Settlement Act that otherwise lie within their state boundaries. In addition, consistent with the definition of ''State'' set out in Section 3(40) of the Communications Act, the Commission will collect this information from, states as well as the District of Columbia and the inhabited U.S. Territories and possessions.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2015–01156 Filed 1–22–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:31 a.m. on Wednesday, January 21, 2015, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters related to the Corporation's supervision, corporate, and resolution activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Thomas M. Hoenig, seconded by Director Jeremiah O. Norton (Appointive), concurred in by Director Thomas J. Curry (Comptroller of the Currency), Director Richard Cordray (Director, Consumer Financial Protection Bureau), and Chairman Martin J. Gruenberg, that Corporation business required its consideration of the matters which were to be the subject of this meeting on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street NW., Washington, DC.

Dated: January 21, 2015.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–01330 Filed 1–21–15; 4:15 pm]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Performance Review Board

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Board.

FOR FURTHER INFORMATION CONTACT: William ''Todd'' Cole, Director, Office of Human Resources, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573.

SUPPLEMENTARY INFORMATION: Sec. 4314(c)(1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Mario Cordero,

Chairman.

The Members of the Performance Review Board Are:

1. Rebecca F. Dye, Commissioner
2. Richard A. Lidinsky, Jr., Commissioner
3. Michael A. Khouri, Commissioner
4. William P. Doyle, Commissioner
5. Clay G. Guthridge, Administrative Law Judge
6. Erin M. Wirth, Administrative Law Judge
7. Florence A. Carr, Director, Bureau of Trade Analysis
8. Rebecca A. Fenneman, Director, office of Consumer Affairs & Dispute Resolution Services
9. Karen V. Gregory, Secretary
10. Vern W. Hill, Director, Managing Director
11. Peter J. King, Director, Bureau of Enforcement
12. Sandra L. Kusumoto, Bureau of Certification and Licensing

[FR Doc. 2015–01206 Filed 1–22–15; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 19, 2015.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Stupp Bros., Inc., and Midwest BankCentre, Inc.,* both in St. Louis, Missouri; to indirectly acquire 100 percent of the voting shares of Southern Bancshares, Corp., and thereby indirectly acquire Southern Commercial Bank, both in St. Louis, Missouri.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *CCSB Financial Corp,* Liberty. Missouri; to become a bank holding company upon the conversion of Clay County Savings Bank, Liberty, Missouri, to a commercial bank.

Board of Governors of the Federal Reserve System, January 20, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–01135 Filed 1–22–15; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier HHS–OS–0990–0322–30D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for reinstatement of a previously-approved information collection assigned OMB control number 0990–0322, which expired on December 31, 2014. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before February 23, 2015.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the OMB control number 0990–0322 and document identifier HHS–OS–30D for reference.

Information Collection Request Title: Safe Harbor for Federally Qualified Health Centers Arrangements

Abstract: The Office of General Inspector needs an approval by OMB on an reinstatement without change for data collection 0990–0322 which are requirements associated with a voluntary safe harbor for Federally Qualified Health Centers under the Federal anti-kickback statute. *See* 72 FR 56632 (October 4, 2007). The safe harbor protects certain arrangements involving goods, items, services, donations, and loans provided by individuals and entities to certain health centers funded under section 330 of the Public Health Service Act.

Likely Respondents: Health Centers.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Type of respondent	Number of respondents	Number responses per respondent	Avg. burden hour per response	Total burden hours
Health Center (administrative professional)	4,983	1	1	4,983

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–01098 Filed 1–22–15; 8:45 am]

BILLING CODE 4151–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier HHS–OS–0955–0013–New–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for reinstatement of a previously-approved information collection assigned OMB

control number 0955–0013, which expired on July 31, 2014. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before February 23, 2015.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the OMB control number 0955–0013 and document identifier HHS–0955–0013–30D for reference.

Information Collection Request Title: Permanent Certification Program for Health Information Technology.

Abstract: HHS/Office of the National Coordinator for Health Information Technology, (ONC) is requesting an approval by OMB on a reinstatement without change to a previously approved collection of information under the permanent certification program (OMB control number 0990–0013). Under 45 CFR 170.523(f), ONC–ACBs are required to provide ONC, no less frequently than weekly, a current list of Complete EHRs and/or EHR Modules that have been certified which includes, at a minimum, the vendor name (if applicable), the date certified, the product version, the unique certification number or other specific product identification, and where applicable, the certification criterion or certification criteria to which each EHR Module has been certified. Organizations that wish to become ONC-Authorized Certification Bodies (ONC–ACBs) must submit the information specified by the application requirements, and ONC–ACBs must comply with collection and reporting requirements, records retention requirements, and submit annual surveillance plans and annually report surveillance results.

Likely Respondents: Accreditation Organization, Applicants, ONC–ACB Surveillance Plan and Results.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Burden hours per response	Total burden hours
Accreditation Organization	2	1	1	2
Applicant	6	1	1	6
45 CFR 170.523(f)	6	52	1.33	415
ONC–ACB Surveillance Plan and Results	6	2	1	12
Total				435

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–01103 Filed 1–22–15; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier HHS–OS–0990–New–60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit a new Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting that ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before March 24, 2015.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance Staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier HHS–OS–0990–New–60D for reference.

Information Collection Request Title: Title X Sustainability Assessment Tool For Grantees and Service Sites

Abstract: The Office of Population Affairs within the Office of the Assistant Secretary for Health seeks to collect data from the Title X centers on efforts related to (1) assisting individuals in obtaining health insurance; (2) partnerships with primary care providers; (3) availability and use of electronic health records; (4) monitoring patient care quality; (5) factors affecting revenue sources; and (6) the way that sites conduct analyses to consider the cost of providing services.

Need and Proposed Use of the Information

The Title X Family Planning Program (''Title X program'' or ''program'') is the only Federal grant program dedicated solely to providing individuals with comprehensive family planning and related preventive health services (*e.g.,* screening for breast and cervical cancer, sexually transmitted diseases (STDs), and human immunodeficiency virus [HIV]). By law, priority is given to persons from low-income families (Section 1006[c] of Title X of the Public Health Service Act, 42 U.S.C. 300). The Office of Population Affairs (OPA) within the Office of the Assistant Secretary for Health administers the Title X program.

The American health care system is experiencing unprecedented levels of change as a result of the Patient Protection and Affordable Care Act (ACA). The exact impact of these health system changes to Title X centers needs to be assessed in order to ensure the long term sustainability of the Title X network.

This data collection is necessary to explain trends in client volume, insurance status of clients and revenue sources for Title X centers (data already collected through the Family Planning Annual Report—FPAR). This data will be collected directly from individual centers in order to provide contextual information and explain national trends in FPAR data.

OPA will utilize these data in three main ways:

First, OPA needs to prepare grantees and Title X centers to respond to changes in the health system. As more individuals obtain health insurance, OPA needs to understand how individual Title X centers may be affected. Second, OPA invests in national training centers that are charged with providing national training, resources and technical assistance to grantees. Data collected from this effort will be used to inform the work of the training centers so they can better support the Title X grantees. Third, this data will help OPA better understand challenges affecting Title X centers in order to better work with HHS entities and national stakeholders to provide resources to Title X centers. Data will be collected through an online data collection tool directly from grantees and from Title X centers.

Likely Respondents: This annual reporting requirement is centers that receive funding (either directly from OPA or through a subrecipient or grantee agency) for family planning services authorized and funded by the Title X Family Planning Program [''Population Research and Voluntary Family Planning Programs'' (Pub. L. 91–572)], which was enacted in 1970 as Title X of the Public Health Service Act (Section 1001 of Title X of the Public Health Service Act, 42 United States Code [U.S.C.] 300).

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information.

Based on some pilot work, the total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average annualized burden per response (hours)	Annualized total burden (hours)
Grantees	Sustainability Assessment—Grantees.	92	1	0.66	60.72
Service Sites	Sustainability Assessment—Sites	4,168	1	0.66	2,750.88
Totals		4,260			2811.60

OS specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–01099 Filed 1–22–15; 8:45 am]

BILLING CODE 4150–48–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Scientific Information Request on Noninvasive Testing for Coronary Artery Disease

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for Scientific Information Submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review of ''Noninvasive Testing for Coronary Artery Disease'', which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Programs. Access to published and unpublished pertinent scientific information will improve the quality of this review. AHRQ is conducting this systematic review pursuant to Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

DATES: *Submission Deadline* on or before February 23, 2015.

ADDRESSES: *Online submissions: http://effectivehealthcare.AHRQ.gov/index.cfm/submit-scientific-information-packets/.* Please select the study for which you are submitting information from the list to upload your documents.

Email submissions: SIPS@epc-src.org.

Print submissions:

Mailing Address: Portland VA Research Foundation,Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, PO Box 69539, Portland, OR 97239. Shipping Address (FedEx, UPS, etc.): Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, 3710 SW U.S. Veterans Hospital Road, Mail Code: R&D 71, Portland, OR 97239.

FOR FURTHER INFORMATION CONTACT: Ryan McKenna, Telephone: 503–220–8262 ext. 58653 or Email: *SIPS@epc-src.org.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Programs to complete a review of the evidence for ''Noninvasive Testing for Coronary Artery Disease''.

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on ''Noninvasive Testing for Coronary Artery Disease'', including those that describe adverse events. The entire research protocol, including the key questions, is also available online at: *http://effectivehealthcare.ahrq.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=2017.*

This notice is to notify the public that the EPC Program would find the following information on ''Noninvasive Testing for Coronary Artery Disease'' helpful:

• A list of completed studies that your organization has sponsored for this indication. In the list, *please indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*

• *For completed studies that do not have results on ClinicalTrials.gov*, please provide a summary, including the following elements: Study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.

• *A list of ongoing studies that your organization has sponsored for this indication.* In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.

• Description of whether the above studies constitute *all Phase II and above clinical trials* sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution will be very beneficial to the EPC Program. The contents of all submissions will be made available to the public upon request. Materials submitted must be publicly available or can be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC program Web site and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *http://effectivehealthcare.AHRQ.gov/index.cfm/join-the-email-list1/.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions. The entire research protocol, is available online at: *http://effectivehealthcare.ahrq.gov/search-for-guides-reviews-and-reports/?pageaction=isplayproduct&productID=2017.*

The Key Questions

In stable, symptomatic patients with suspected coronary artery disease (CAD) who do not have previously diagnosed CAD and who have had a resting electrocardiogram (ECG):

1. For patients considered to be *at very low or low risk* for CAD, what is the comparative effectiveness of anatomic tests (compared with each other, standard of care, or no testing):

(a) For improving primary clinical health outcomes (*e.g.,* quality of life, avoiding myocardial infarction)? In the absence of comparative studies linking testing with outcomes, do the tests predict future clinical events (predictive accuracy)?

(b) What are the adverse effects, consequences, or harms of testing?

(c) How do noninvasive tests differ in terms of clinical management based on test results, including referral for coronary angiography or additional noninvasive testing?

(d) What harms are associated with additional testing following anatomic tests?

(e) Is there differential effectiveness or harm based on patient characteristics (*e.g.,* sex, age, comorbidities)?

2. For patients considered to be at *very low or low risk* for CAD, what is the comparative effectiveness of functional tests (compared with each other, standard of care, or no testing):

(f) For improving primary clinical health outcomes (*e.g.,* quality of life, avoiding myocardial infarction)? In the absence of comparative studies linking testing with outcomes, do the tests predict future clinical events (predictive accuracy)?

(g) What are the adverse effects, consequences or harms of testing?

(h) How do noninvasive tests differ in terms of clinical management based on test results, including referral for coronary angiography or additional noninvasive testing?

(i) What harms are associated with additional testing following anatomic tests?

(j) Is there differential effectiveness or harm based on patient characteristics (*e.g.,* sex, age, comorbidities) or the patient's ability to exercise?

3. For patients considered to be at *intermediate to high risk* for CAD, what is the comparative effectiveness of anatomic tests (compared with each other standard of care, or no testing):

(k) For improving primary clinical health outcomes (*e.g.,* quality of life, avoiding myocardial infarction)? In the absence of comparative studies linking testing with outcomes, do the tests predict future clinical events (predictive accuracy)?

(l) What are the adverse effects, consequences, or harms of testing?

(m) How do noninvasive tests differ in terms of clinical management based on test results, including referral for coronary angiography or additional noninvasive testing?

(n) What harms are associated with additional testing following anatomic tests?

(o) Is there differential effectiveness or harm based on patient characteristics (*e.g.,* sex, age, comorbidities)?

4. For patients considered to be at *intermediate to high risk* for CAD, what is the comparative effectiveness of functional tests (compared with each other, standard of care, or no testing):

(p) For improving primary clinical health outcomes (*e.g.,* quality of life, avoiding myocardial infarction)? In the absence of comparative studies linking testing with outcomes, do the tests predict future clinical events (predictive accuracy)?

(q) What are the adverse effects, consequences, or harms of testing?

(r) How do noninvasive tests differ in terms of clinical management based on test results, including referral for coronary angiography or additional noninvasive testing?

(s) What harms are associated with additional testing following anatomic tests?

(t) Is there differential effectiveness or harm based on patient characteristics (*e.g.,* sex, age, comorbidities) or the patient's ability to exercise?

5. What is the comparative effectiveness of anatomic tests versus functional tests in those who are at *very low or low risk* for CAD?

(u) For improving primary clinical health outcomes (*e.g.,* quality of life, avoiding myocardial infarction)?

(v) What are the adverse effects, consequences or harms of testing?

(w) How do noninvasive tests differ in terms of clinical management based on test results, including referral for coronary angiography or additional noninvasive testing?

(x) What harms are associated with additional testing following anatomic tests?

(y) Is there differential effectiveness or harm based on patient characteristics (*e.g.,* sex, age, comorbidities) or the patient's ability to exercise?

6. What is the comparative effectiveness of anatomic tests versus functional tests in those who are at *intermediate to high risk* for CAD?

(z) For improving primary clinical health outcomes (*e.g.,* quality of life, avoiding myocardial infarction)?

(aa) What are the adverse effects, consequences or harms of testing?

(bb) How do noninvasive tests differ in terms of clinical management based on test results, including referral for coronary angiography or additional noninvasive testing?

(cc) What harms are associated with additional testing following anatomic tests?

(dd) Is there differential effectiveness or harm based on patient characteristics (*e.g.,* sex, age, comorbidities) or the patient's ability to exercise?

PICOTS (Population, Intervention, Comparator, Outcome, Timing, Setting)

Patient Population of Interest and Pre-Test Risk of CAD:

The patient population is stable, symptomatic patients with suspected CAD who do not have previously diagnosed CAD and who have had a resting ECG. The definitions of risk categories are based on those described in the ACCF/AHA 2012 Guideline.[8] In general, patient presentation and symptoms are primarily used to inform pre-test probability in the population of interest. The review will attempt to stratify studies based on these characteristics if definitions are not provided.

- Include patients whose risk for CAD may be considered as follows:
  - Those considered to be at *very low or low risk* of CAD based on having none or only one of the following:
    - Patient age and gender (female <65 years old, male <55 years old)
    - Negative family history for CAD
    - <2 CAD risk factors (including hypertension, diabetes, smoking, dyslipidemia, metabolic syndrome)
    - New onset angina/chest pain (including noncardiac or atypical chest pain, angina equivalents, unstable angina without non-ST-segment elevation myocardial infarction [NSTEMI], ST-segment elevation myocardial infarction [STEMI])
    - Normal or non-diagnostic resting ECG
  - Those considered to be at *intermediate to high risk* of CAD based on having two or more of the following:
    - Patient age and gender (female ≥65 years old, male ≥55 years old)
    - Positive family history for CAD
    - ≥2 CAD risk factors (including hypertension, diabetes, smoking, dyslipidemia, metabolic syndrome)
    - New onset or progressive angina/chest pain or those with prolonged angina at rest (or relieved with rest or nitroglycerin) or nocturnal angina (angina including typical, atypical, definite, probable)
    - Possible ECG changes (*e.g.,* T-wave, NSTEMI) or nondiagnostic ECG
    - Presence of other vascular disease (carotid disease, peripheral artery disease [PAD])
    - Exclude patients with any of the following characteristics:
      - Unstable angina with elevated serum cardiac biomarkers, ECG changes, etc.
      - Definite acute coronary syndrome (ACS), Non-ST-Elevation Acute Coronary Syndromes (NSTE–ACS), NSTEMI, STEMI
      - Asymptomatic patients, including those being screened prior to surgery

Interventions

This systematic review will focus on widely available noninvasive tests used for diagnosis of CAD or dysfunction that results in symptoms attributable to myocardial ischemia. Coronary artery calcium scoring has been included since it has been proposed primarily for its ability to exclude the presence of obstructive disease but not necessarily to confirm the presence of flow-limiting stenosis.

Interventions for inclusion are:

- Functional tests (including exercise, vasodilator and/or dobutamine as stressor where appropriate)
  - Exercise electrocardiogram without imaging
  - Exercise/pharmacologic echocardiography (with or without myocardial echo contrast)
  - Exercise/pharmacologic cardiac nuclear imaging
    - SPECT
    - PET
    - Pharmacologic stress MRI
    - CT perfusion
- Anatomic imaging
  - Coronary calcium scoring via electron beam CT (EBCT) or multidetector CT (MDCT)
  - CCTA

Comparators

Comparisons between noninvasive tests included in the interventions; comparisons with no testing or standard of care. (Contextual information will be provided in the background only for comparisons of noninvasive tests with invasive coronary angiography with or without FFR and for comparison between noninvasive tests on traditional diagnostic test measures such as sensitivity and specificity.)

Outcomes

- Clinical outcomes
  - Quality of life (QOL)
  - Change in angina (*e.g.,* worsening)
  - MI
  - Heart failure
  - Stroke
  - Death
  - Hospitalization for cardiovascular events (acute coronary syndrome, heart failure, arrhythmias)
  - Dysrhythmia
- Intermediate outcomes
  - Need for additional testing (including referral for invasive testing)
  - Management based on revised post-test risk stratification, including:
    - Guideline-directed medical therapy (GDMT), including management of lipids, blood pressure, and diabetes; counseling related to diet, physical activity, smoking cessation, alcohol use, and management of psychological factors; use of additional therapies to reduce risk of MI and death (*e.g.,* antiplatelet therapy).
    - Any need for subsequent revascularization (percutaneous coronary intervention [PCI] or coronary artery bypass grafting [CABG])
    - Harms, risks and consequences of testing
      - Procedural harms, adverse events of testing (*e.g.,* renal failure, allergy, nephrogenic systemic fibrosis, contrast-related harms, adverse reactions to drugs for stress tests), vascular complications
      - Consequences of testing (*e.g.,* radiation exposure, psychological consequences, consequences of additional testing or incidental findings)

Setting

Nonemergent inpatient settings or ambulatory/outpatient settings, including emergency department.

Timing

At time of first test for evaluation using a noninvasive test other than resting ECG.

Dated: December 29, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2015–00763 Filed 1–22–15; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Scientific Information Request on Strategies to Treat and Manage Infantile Hemangioma

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for Scientific Information Submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review of Strategies to Treat and Manage Infantile Hemangioma, which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Programs. Access to published and unpublished pertinent scientific information will improve the quality of this review. AHRQ is conducting this systematic review pursuant to Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

DATES: Submission Deadline on or before February 23, 2015.

ADDRESSES:

Online submissions: http://effectivehealthcare.AHRQ.gov/index.cfm/submit-scientific-information-packets/. Please select the study for which you are submitting information from the list to upload your documents.

Email submissions: SIPS@epc-src.org.

Print submissions: Mailing Address: Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, P.O. Box 69539, Portland, OR 97239. Shipping Address (FedEx, UPS, etc.): Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, 3710 SW U.S. Veterans Hospital Road, Mail Code: R&D 71m Portland, OR 97239

FOR FURTHER INFORMATION CONTACT: Ryan McKenna, Telephone: 503–220–8262 ext. 58653 or Email: *SIPS@epc-src.org.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Programs to complete a review of the evidence for Strategies to Treat and Manage Infantile Hemangioma.

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on *Strategies to Treat and Manage Infantile Hemangioma,* including those that describe adverse events. The entire research protocol, including the key questions, is also available online at: *http://effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=2016.*

This notice is to notify the public that the EPC Program would find the following information on *Strategies to Treat and Manage Infantile Hemangioma* helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.
- *For completed studies that do not have results on ClinicalTrials.gov,* please provide a summary, including the following elements: study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- A list of ongoing studies that your organization has sponsored for this indication. In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute all *ALL Phase II and above clinical trials* sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution will be very beneficial to the EPC Program. The contents of all submissions will be made available to the public upon request. Materials submitted must be publicly available or can be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program Web site and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *http://effectivehealthcare.AHRQ.gov/index.cfm/join-the-email-list1/.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions. The entire research protocol, is available online at: *http://effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=2016.*

The Key Questions

Our Contextual Questions (CQs) are as follows:

CQ1

What is known about the natural history of infantile hemangiomas, by hemangioma site and subtype? What are the adverse outcomes of untreated infantile hemangiomas? What characteristics of the hemangioma (*e.g.,* subtype, size, location, number of lesions) indicate risk of significant medical complications that would prompt immediate medical or surgical intervention?

CQ2

What is the evidence that five or more cutaneous hemangiomas are associated with an increased risk of occult hemangiomas?

Our Key Questions (KQs) are as follows:

KQ1

Among newborns, infants, and children up to 18 years of age with known or suspected infantile hemangiomas, what is the comparative effectiveness (benefits/harms) of various imaging modalities for identifying and characterizing hemangiomas?

- Does the comparative effectiveness differ by location and subtype of the hemangioma?

KQ2

Among newborns, infants, and children up to 18 years of age with infantile hemangiomas who have been referred for pharmacologic intervention, what is the comparative effectiveness (benefits/harms) of corticosteroids or beta-blockers?

KQ3

Among newborns, infants, and children up to 18 years of age with infantile hemangiomas for whom treatment with corticosteroids or beta-blockers is unsuccessful what is the comparative effectiveness of second line therapies including immunomodulators and angiotensin-converting enzyme inhibitors?

KQ4

Among newborns, infants, and children up to 18 years of age with infantile hemangiomas who have been

referred for surgical intervention, what is the comparative effectiveness (benefits/harms) of various types of surgical interventions (including laser and resection)?

PICOTS (Population, Intervention, Comparator, Outcomes, Timing, Setting)

KQ 1

Population

Newborns, infants, and children up to 18 years of age with known or suspected infantile hemangiomas.

Intervention(s)

Diagnostic imaging:
- Magnetic resonance imaging
- Computed tomography
- Magnetic resonance angiography
- Echocardiography
- Ultrasonography
- Endoscopy

Comparator

- Other workup evaluation approaches for treatment planning
- Other imaging modalities

Outcomes

- Ability to identify presence, number, and extent of hemangiomas and associated structural anomalies (sensitivity and specificity)
- Harms including, but not limited to, effects of sedation or imaging dye

Timing

- Immediate and short-term (≤3 months)
- Long-term (>3 months)

Setting

Inpatient and outpatient settings (*e.g.,* pediatric radiology clinic, otolaryngology clinics, dermatology clinics, pediatric surgical unit)

KQs 2, 3, and 4

Population

Newborns, infants, and children up to 18 years of age with infantile hemangiomas.

Intervention(s)

KQ2 Pharmacologic interventions
- Systemic (*e.g.,* propranolol) or topical (*e.g.,* timolol) beta-blockers
- Corticosteroids (topical, intralesional, or systemic)

KQ3 Pharmacologic interventions
- Immunosuppressants (*e.g.,* sirolimus)
- Immunomodulators (*e.g.,* imiquimod, interferon)
- Antineoplastics (*e.g.,* intralesional bleomycin, intravenous vincristine)
- Angiotensin-converting enzyme inhibitors
- Antiangiogenic agents

KQ4 Surgical interventions

Laser treatment
- Pulsed dye
- Fractionated laser
- Argon
- Carbon dioxide
- Neodymium (Nd): Yttrium Aluminium Garnet YAG
- Erbium

Surgical treatment
- Cryotherapy
- Resection
- Embolization
- Radiofrequency ablation therapy

Comparator

KQ2, 3
- No treatment
- Other pharmacologic interventions
- Observation
- Complementary and alternative medicine (CAM) (*e.g.,* massage, compression therapy, essential oils)

KQ4
- No treatment
- Other laser or surgical interventions
- Observation
- CAM (*e.g.,* massage, compression therapy, essential oils)

Outcomes

Intermediate outcomes (KQ2, 3, 4)
- Size/volume of hemangioma
- Impact on vision
- Aesthetic appearance as assessed by clinician or parent
- Degree of ulceration
- Harms
- Quality of life

Final outcomes (KQ2, 3, 4)
- Marked improvement of hemangiomas
- Prevention of disfigurement
- Resolution of airway obstruction
- Preservation of vision
- Preservation of organ function (*e.g.,* thyroid function, cardiac function)
- Resolution of ulceration
- Psychological impact on the patient
- Harms including: pain, bleeding, sequelae of scarring, skin atrophy, venous prominence, disfigurement, distortion of anatomic landmarks, ulceration, infection, hypopigmentation

Timing

KQ2, 3
- Immediate and short-term (≤2 years of age)
- Long-term (>2 years of age)

KQ4
- Immediate and short-term (≤3 months)
- Long-term (>3 months)

Setting

Inpatient and outpatient settings (*e.g.,* pediatric radiology clinic, otolaryngology clinics, dermatology clinics, pediatric surgical unit)

Dated: December 30, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2015–00766 Filed 1–22–15; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–15LB]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to Leroy A. Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology

and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Enhancing Dialogue and Execution of Dust Reduction Behaviors through Workgroup Communication—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NIOSH, under Public Law 91–596, Sections 20 and 22 (Section 20–22, Occupational Safety and Health Act of 1977) has the responsibility to conduct research relating to innovative methods, techniques, and approaches dealing with occupational safety and health problems.

This project focuses on mineworkers' overexposure to respirable coal dust and how using the Continuous Personal Dust Monitor (CPDM), as an educational tool, can help provide information to mineworkers and their respective workgroups, about ways to reduce respirable coal dust exposure in their work environment. NIOSH proposes a 3 year approval for a project that seeks to understand what group communication practices are important for mine worker H&S and how those practices can be developed, implemented, and maintained over time. The following questions guide this study:

What impact does a communication/technology intervention model that was designed and implemented have on: (1) Workers' health/safety behaviors, including those that lower exposure to dust; and (2) workers' perceptions of their organizations' health and safety values?

To answer the above questions, NIOSH researchers developed an intervention that focuses on workers' communication about and subsequent actions taken to reduce respirable dust exposure over time, using information provided by their Continuous Personal Dust Monitor (CPDM). The intervention will inform how workgroups communicate with each other about health and how this communication impacts individual behavior such as corrective dust actions taken by workers.

Coal Workers' Pneumoconiosis (CWP) or ''Black Lung Disease'' is caused by miners' exposure to respirable coal mine dust and is the leading cause of death due to occupational illness among US coal miners—making this an issue worth placing emphasis in mine health research. X-rays provided from the US National Coal Workers' X-ray Surveillance Program show that new cases of CWP are occurring among miners who have worked exclusively under previous respirable coal mine dust exposure limits. Previously, federal law stated that respirable coal dust levels must not exceed 2 mg/m^3 for any work shift [Code of Federal Regulations]. However, under the new respirable dust rule that passed May 1, 2014 (CFR part 70), the dust level may not exceed 1.5 mg/m^3. The new rule also requires mine operators to use CPDMs by February 1, 2016, for designated occupations (DO). Although CPDMs provide miners with near real-time feedback about their level of respirable coal dust exposure, they do not ensure that miners will use the information to reduce their level of exposure. Previous research indicates that the use of information technology can enhance lateral and horizontal communication within organizations, showing support for using the CPDM in the current study (Hinds & Kiesler, 1995).

The intervention is designed to involve workers in the interpretation of CPDM feedback and discuss, with their coworkers/workgroups, potential changes to work practices that can decrease exposure to respirable coal mine dust. Data is collected during three time points throughout a six-week intervention to assess the ongoing communication using CPDM feedback and effects of the workgroup communication on behavior. Data collection and analysis will occur via a pre/post survey with workers and focus groups with workers and mine site leaders. Safety circles are used to communicate and encourage specific behavior changes. A typical circle includes a facilitator or leader (who directs the meetings), 7–10 members, and one-hour weekly meetings that take place during the workday. During the meetings, members review data relevant to the problem and brainstorm possible solutions. Industries have successfully used ''safety circles'' to generate lists of safety concerns that circle members would like to analyze and solve. Edwards [1983] documented that one surface coal mine was able to decrease the number of accidents on circle members' shifts by 27%. If underground coal miners are able to actively participate in the discussion of respirable coal mine dust exposure levels and what can be done to limit future exposure, they may be more inclined to behave in ways that limit their exposure.

With the stricter regulations that just passed the opportunity to proactively improve communication around the CPDM and identify appropriate corrective actions, as required by the Mine Health and Safety Administration, is favorable. NIOSH proposes this intervention design at three coal mine sites. Coal mine sites will be recruited who have inquired interest in learning how to improve utility of the CPDM on their site and/or interest in improving their employees' communication efforts. Only a small sample of workers will participate at each mine site because of the time required for completion and to ensure the longitudinal data can be adequately collected over the six weeks. In other words, we would rather collect data multiple times with the same worker and have fewer participants than collect data from more workers but not have the ability to appropriately follow-up during the subsequent two visits.

Data collection will take place with no more than 150 mine workers and nine mine site leaders over three years. The respondents targeted for this study include any active mine worker and any active site leader at a coal mine site. It is estimated that a sample of up to 150 mine workers will participate, which includes participating in three focus groups (in the form of workgroup meetings) that will take approximately 60 minutes. The focus groups will debrief general CPDM data so participants can dialogue about ways to lower their exposure levels. In addition, workers will be asked to complete a pre and post-test survey (~15 minutes). It also is estimated that a sample of up to nine mine site leaders will participate in the form of interviews/focus groups about HSMS practices at the same mining operations which have agreed to participate. The interviews/focus groups also will occur three times during each of the NIOSH field visits and will take no more than 30 minutes each.

All participants will be between the ages of 18 and 75, currently employed, and living in the United States. Participation will require no more than 3.5 hours of workers' time over the six-week intervention and no more than 1.5 hours of site leaders' time over the six-week intervention period.

There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Mine Site Leaders/Managers.	Mine Recruitment Script	3	1	5/60	1
	Initial/Mid/Post HSMS interview or focus group	3	3	30/60	5
Mine Worker	Individual Miner Recruitment Script	50	1	5/60	4
	Pre/Post Org Perceptions Survey	50	2	15/60	25
	Pre/Mid/Post Behavior Focus Groups	50	3	1	150
Total					185

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–01094 Filed 1–22–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–15ZK]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to Leroy A. Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Research on the Efficacy and Feasibility of Essentials for Parenting Toddlers and Preschoolers—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

It is estimated that 1 in 58 U.S. children had been maltreated in a 1-year period (*i.e.,* victims of physical, sexual, and emotional abuse or neglect). Parent training is arguably the single most effective prevention initiative recognized to date. The Centers for Disease Control and Prevention has developed ''Essentials for Parenting Toddlers and Preschoolers'' (EFP). This web-based resource uses a psychoeducational approach incorporating modeling (through its videos) and practice (through its activities). Thus, EFP is likely to improve parenting (*e.g.,* discipline practices), reduce child behavior problems, and may ultimately reduce child maltreatment. Moreover, it is free for parents and can be accessed through any device that can use the Internet, including computers, tablets, and smart phones. If it proves to be effective, it may ultimately be less expensive to develop, evaluate, and disseminate EFP.

CDC is proposing an information collection to OMB for a period of one year. The purpose of this data collection request is to determine whether a web-based platform for delivery of positive parenting information yields changes in parent and child behaviors that are consistent with those observed in the clinic setting. If EFP is successful at increasing positive parenting and safe, stable, nurturing relationships and environments for children, then CDC has a resource that can be easily and freely disseminated to communities that can potentially impact rates of child maltreatment.

We will conduct a two-arm study of 200 parents of 2- to 4-year-old children. In one arm, parents will be guided in how and when they use specific intervention modules. In the other arm, parents will have access to the same EFP content but will use as much or as little of the intervention as they wish and on whatever time line they wish. Parents in both arms will complete assessments of child externalizing behavior, parenting behaviors (*e.g.,* use of praise and time outs), parenting thoughts (*e.g.,* perceived parenting competence and burden), and parent psychological adjustment (*e.g.,* depression and anxiety), as well as knowledge and perceived usefulness of EFP intervention content. The impact of this data collection on participants' privacy is low.

The survey data will be housed in a database on encrypted, password protected electronic storage files. All information shared will be in an aggregate form for the scientific

community. The data will be translated for practitioners and others engaged in parent training work. Data that are collected will be stored physically and electronically by the contractors collecting the respective data at their offices. De-identified electronic database(s) will be transferred to CDC. Any hard copies of data will be destroyed after the data has been successfully entered, cleaned and backed up into the database. We anticipate that the surveys will take between 15 minutes to 45 minutes to complete (depending on which survey is being completed).

The proposed data collection fits into the National Center for Injury Prevention and Control Research Agenda Priorities in Preventing Child Maltreatment. Research is essential to ensure effects on parenting are achieved using the new delivery platform. If Essentials for Parenting Toddlers and Preschoolers is successful at increasing positive parenting and safe, stable, nurturing relationships and environments for children, then CDC has a resource that can be easily and freely disseminated to communities. Ultimately, the results of the work will be disseminated to researchers, states, and the public.

There are no costs to the respondents other than their time. The total estimated annual burden hours are 1,950.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)	Total burden (in hrs)
Parents (both Natural Navigation [NN] and Guided Navigation [GN] groups).	Screening and Demographics Questionnaires.	200	1	15/60	50
	Detailed Assessment Measures	200	2	45/60	300
	Core Assessment Measures (Rotating).	200	16	15/60	800
	Parental EFP Skills Knowledge Scale.	200	10	15/60	500
	Parental EFP Skills Usefulness Scale.	200	5	15/60	250
	Therapy Attitude Inventory and System Usability Scale.	200	1	15/60	50
Total	.....	.....	.....	.....	1,950

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–01093 Filed 1–22–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

[CDC–2015–0003, Docket Number NIOSH–279]

NIOSH Current Intelligence Bulletin: Reproductive Risks Associated With Hazardous Drug Exposures in Healthcare Workers and Recommendations for Reducing Exposures

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Request for information and comment.

SUMMARY: The National Institute for Occupational Safety and Health of the Centers for Disease Control and Prevention announces the availability of a draft Current Intelligence Bulletin entitled NIOSH Current Intelligence Bulletin: *Reproductive Risks Associated with Hazardous Drug Exposures in Healthcare Workers and Recommendations for Reducing Exposures* now available for public comment. To view the notice and related materials, visit *http://www.regulations.gov* and enter CDC–2015–0003 in the search field and click ''Search.''

Public comment period: Electronic or written comments must be received March 24, 2015.

ADDRESSES: You may submit comments, identified by CDC–2015–0003 and Docket Number NIOSH–279, by either of the following two methods:

- *Federal eRulemaking Portal: http://www.regulations.gov* Follow the instructions for submitting comments.
- *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

Instructions: All information received in response to this notice must include the agency name and docket number [CDC–2015–0003; NIOSH–279]. All relevant comments received will be posted without change *http://www.regulations.gov,* including any personal information provided. All information received in response to this notice will also be available for public examination and copying at the NIOSH Docket Office, 1150 Tusculum Avenue, Room 155, Cincinnati, OH 45226.

SUPPLEMENTARY INFORMATION:

Background: The NIOSH Current Intelligence Bulletin: *Reproductive Risks Associated with Hazardous Drug Exposures in Healthcare Workers and Recommendations for Reducing Exposures* reviews and summarizes all published studies on adverse reproductive effects of occupational exposures to antineoplastic drugs. Hazardous drugs, especially antineoplastic drugs, are some of the most potent teratogenic chemicals known. In addition, they can affect germinal cells, reproduction, and exposures can result in spontaneous abortion. This document summarizes results of animal studies, occupational epidemiology studies, as well as adverse effects that have been observed in patients treated with these drugs. While workplaces should be safe for all employees, the unique sensitivity of the developing fetus and the infant who is

breastfeeding necessitate the need for extra precautions when these drugs are handled by both males and females who are trying to conceive, women who may become or who are pregnant, and women who are breast feeding. Recommendations for temporary reassignment of duties or alternative duty are included in this guidance document.

Information Needs: Additional data and information are needed to assist NIOSH to protect the reproductive health of healthcare workers who come in contact with antineoplastic drugs. Information is needed for: (1) Appropriateness of guidance, (2) Effect on work practices, (3) Confidentiality issues, (4) Financial impact.

NIOSH seeks to obtain materials, including published and unpublished reports and research findings, to evaluate:

- Relevant publications not included in this document
- Institutional and organizational policies in effect
- Other relevant information related to this topic

References

Connor TH, DeBord G, Pretty JR, Oliver MS, Roth TS, Lees PSJ, Krieg EF, Rogers B, Escalante CP, Toennis CA, Clark JC, Johnson B, McDiarmid MA [2010]. Evaluation of antineoplastic drug exposure of health care workers at three university-based US cancer centers. J Occup Environ Med *52:*1019–1027.

Connor TH, Lawson CC, Polovich M, McDiarmid MA [2014]. Reproductive health risks associated with occupational exposures to antineoplastic drugs in health care settings. JOEM *56:* 901–10.

Lawson CC, Rocheleau CM, Whelan EA, Lividoti Hibert EN, Grajewski B, Spiegelman D, Rich-Edwards JW [2012]. Occupational exposures among nurses and risk of spontaneous abortions. Am J Obstet Gynecol *206*(327):e1–8.

FOR FURTHER INFORMATION CONTACT: Thomas H. Connor, NIOSH, Division of Applied Research and Technologies, Robert A. Taft Laboratories, 1090 Tusculum Avenue, MS–C23, Cincinnati, Ohio 45226, Phone: (513) 533–8399, Email: *hazardousdrugs@cdc.gov.*

Dated: January 15, 2015.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2015–01209 Filed 1–22–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2015–0002, Docket Number NIOSH–244–A]

Request for Comment on the Second Decade of National Occupational Research Agenda (NORA)

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Request for information and comment.

SUMMARY: The National Institute for Occupational Safety and Health of the Centers for Disease Control and Prevention announces the availability of NIOSH Docket Number 244–A entitled *Request for Comment on the Second Decade of NORA* for public comment. To view the notice, visit *http://www.regulations.gov* and enter CDC–2015–0002 in the search field and click ''Search.''

Public comment period: Electronic or written comments must be received by March 24, 2015.

ADDRESSES: You may submit comments, identified by CDC–2015–0002 and Docket Number NIOSH–244–A, by either of the following two methods:

- *Federal eRulemaking Portal: http://www.regulations.gov* Follow the instructions for submitting comments.
- *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

Instructions: All information received in response to this notice must include the agency name and docket number [CDC–2015–0002; NIOSH–244–A]. All relevant comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. All electronic comments should be formatted in Microsoft Word. All information received in response to this notice will also be available for public examination and copying at the NIOSH Docket Office, 1150 Tusculum Avenue, Room 155, Cincinnati, OH 45226.

SUPPLEMENTARY INFORMATION:

Background: The National Institute for Occupational Safety and Health (NIOSH) is evaluating the impact of the National Occupational Research Agenda (NORA, *http://www.cdc.gov/niosh/nora/*). NORA is a partnership program to stimulate innovative research and improved workplace practices. Begun in 1996, NORA has become a research framework for NIOSH and the nation. Diverse parties collaborate to identify the most critical issues in workplace safety and health. Partners work together to develop goals and objectives for addressing these needs. Participation in NORA is broad, including stakeholders from universities, large and small businesses, professional societies, government agencies, and worker organizations.

The program entered its second decade in 2006 with a new sector based structure to better move research to practice within workplaces. The national agenda is developed and implemented through the NORA Sector Councils. Each Council develops and maintains an agenda for its sector (*http://www.cdc.gov/niosh/nora/*). The collection of national sector agendas is the agenda for the nation for improvements in occupational safety and health through research and partnerships. Representing all stakeholders, the councils use an open process to set goals, develop strategies, encourage partnerships, and promote improved workplace practices.

NIOSH is reviewing the accomplishments of the second decade of NORA and is preparing for the third decade, which will start in 2016. As a part of this review, NIOSH is seeking comments from partners and the public to evaluate the second decade and plan for the third decade of NORA. NIOSH is requesting the following feedback:

Please describe the most significant successes and challenges of your engagement with NIOSH during the second decade of NORA (2006 to present).

FOR FURTHER INFORMATION CONTACT: Sidney C. Soderholm, Ph.D., NORA Coordinator, CDC—National Institute for Occupational Safety and Health, 395 E St. SW., Suite 9200, Washington, DC 20201 or call (202) 245–0665. This is not a toll free number.

Dated: January 15, 2015.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2015–01208 Filed 1–22–15; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers CMS–29]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by March 24, 2015.

ADDRESSES: When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov*. Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*.

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–29 Verification of Clinic Data—Rural Health Clinic Form and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Verification of Clinic Data—Rural Health Clinic Form and Supporting Regulations; Use: The form is utilized as an application to be completed by suppliers of Rural Health Clinic (RHC) services requesting participation in the Medicare program. This form initiates the process of obtaining a decision as to whether the conditions for certification are met as a supplier of RHC services. It also promotes data reduction or introduction to and retrieval from the Automated Survey Process Environment (ASPEN) and related survey and certification databases by the CMS Regional Offices. Should any question arise regarding the structure of the organization, this information is readily available. *Form Number:* CMS–29 (OMB control number 0938–0074); *Frequency:* Occasionally (initially and then every six years); *Affected Public:* Private Sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 900; *Total Annual Responses:* 900; *Total Annual Hours:* 150. (For policy questions regarding this collection contact Shonté Carter at 410–786–3532.)

Dated: January 20, 2015.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2015–01128 Filed 1–22–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10538 and CMS–10527]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information

technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *February 23, 2015.*

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR*, Email: *OIRA_submission@omb.eop.gov*.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* New collection (request for a new OMB control number); *Title of Information Collection:* Prior Authorization Form for Beneficiaries Enrolled in Hospice; *Use:* The form would be completed by the prescriber or the beneficiary's hospice, or if the prescriber or hospice provides the information verbally to the Part D sponsor, the form would be completed by the sponsor. Information provided on the form would be used by the Part D sponsor to establish coverage of the drug under Medicare Part D. Per statute, drugs that are necessary for the palliation and management of the terminal illness and related conditions are not eligible for payment under Part D. The standard form provides a vehicle for the hospice provider, prescriber or sponsor to document that the drug prescribed is ''unrelated'' to the terminal illness and related conditions. It also gives a hospice organization the option to communicate a beneficiary's change in hospice status and care plan to Part D sponsors. The package has been revised subsequent to the publication of the 60-day **Federal Register** notice on October 3, 2014 (79 FR 59772). *Form Number:* CMS–10538 (OMB control number 0938—New); *Frequency:* Occasionally; *Affected Public:* Private sector (business or other for-profits); *Number of Respondents:* 424; *Total Annual Responses:* 376,487; *Total Annual Hours:* 31,374. (For policy questions regarding this collection contact Shelly Winston at 410–786–3694).

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Annual Eligibility Redetermination, Product Discontinuation and Renewal Notices; *Use:* Section 1411(f)(1)(B) of the Affordable Care Act directs the Secretary of Health and Human Services (the Secretary) to establish procedures to redetermine the eligibility of individuals on a periodic basis in appropriate circumstances. Section 1321(a) of the Affordable Care Act provides authority for the Secretary to establish standards and regulations to implement the statutory requirements related to Exchanges, QHPs and other components of title I of the Affordable Care Act. Under section 2703 of the PHS Act, as added by the Affordable Care Act, and sections 2712 and 2741 of the PHS Act, enacted by the Health Insurance Portability and Accountability Act of 1996, health insurance issuers in the group and individual markets must guarantee the renewability of coverage unless an exception applies.

The final rule ''Patient Protection and Affordable Care Act; Annual Eligibility Redeterminations for Exchange Participation and Insurance Affordability Programs; Health Insurance Issuer Standards Under the Affordable Care Act, Including Standards Related to Exchanges'' (79 FR 52994), provides that an Exchange may choose to conduct the annual redetermination process for a plan year (1) in accordance with the existing procedures described in 45 CFR 155.335; (2) in accordance with procedures described in guidance issued by the Secretary for the coverage year; or (3) using an alternative proposed by the Exchange and approved by the Secretary. The guidance document ''Guidance on Annual Redeterminations for Coverage for 2015'' contains the procedures that the Secretary is specifying for the 2015 coverage year, as noted in (2) above. These procedures will be adopted by the Federally-facilitated Exchange. Under this option, the Exchange will provide three notices. These notices may be combined.

The final rule also amends the requirements for product renewal and re-enrollment (or non-renewal) notices to be sent by Qualified Health Plan (QHP) issuers in the Exchanges and specifies content for these notices. The accompanying guidance document ''Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market'' provides standard notices for product discontinuation and renewal to be sent by issuers of individual market QHPs and issuers in the individual market. Issuers in the small group market may use the draft Federal standard small group notices released in the June 26, 2014, bulletin ''Draft Standard Notices When Discontinuing or Renewing a Product in the Small Group or Individual Market'', or any forms of the notice otherwise permitted by applicable laws and regulations. States that are enforcing the Affordable Care Act may develop their own standard notices, for product discontinuances, renewals, or both, provided the State-developed notices are at least as protective as the Federal standard notices. *Form Number:* CMS–10527; *Frequency:* Annual; *Affected Public:* Private Sector, State Governments; *Number of Respondents:* 2,945; *Number of Responses:* 12,224; *Total Annual Hours:* 149,186. (For policy questions regarding this collection, contact Usree Bandyopadhyay at 410–786–6650.)

Dated: January 20, 2015.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2015–01127 Filed 1–22–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3312–N]

Medicare Program; Meeting of the Medicare Evidence Development and Coverage Advisory Committee—March 24, 2015

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces that a public meeting of the Medicare Evidence Development & Coverage Advisory Committee (MEDCAC) (''Committee'') will be held on Tuesday, March 24, 2015. The Committee generally provides advice and recommendations concerning the adequacy of scientific evidence needed to determine whether certain medical items and services can be covered under the Medicare statute. This meeting will focus on selected molecular pathology tests for the estimation of prognosis in common cancers (such as, adenocarcinoma of the colon and rectum, breast cancer—invasive duct and lobular cancers, non-small cell lung cancers). This meeting is open to the public in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)).

DATES: *Meeting Date:* The public meeting will be held on Tuesday, March 24, 2015 from 7:30 a.m. until 4:30 p.m., Eastern Daylight Time (EDT).

Deadline for Submission of Written Comments: Written comments must be received at the address specified in the **ADDRESSES** section of this notice by 5 p.m., EST, Monday, February 23, 2015. Once submitted, all comments are final.

Deadlines for Speaker Registration and Presentation Materials: The deadline to register to be a speaker and to submit PowerPoint presentation materials and writings that will be used in support of an oral presentation is 5:00 p.m., EST on Monday, February 23, 2015. Speakers may register by phone or via email by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Presentation materials must be received at the address specified in the **ADDRESSES** section of this notice.

Deadline for All Other Attendees Registration: Individuals may register online at *http://www.cms.gov/apps/events/upcomingevents.aspstrOrderBy=1&type=3* or by phone by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by 5 p.m. EDT, Tuesday, March 17, 2015.

We will be broadcasting the meeting live via Webcast at *http://www.cms.gov/live/.*

Deadline for Submitting a Request for Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to contact the Executive Secretary as specified in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than 5:00 p.m., EDT Friday, March 6, 2015.

ADDRESSES: *Meeting Location:* The meeting will be held in the main auditorium of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244.

Submission of Presentations and Comments: Presentation materials and written comments that will be presented at the meeting must be submitted via email to *MedCACpresentations@cms.hhs.gov* or by regular mail to the contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the date specified in the **DATES** section of this notice.

FOR FURTHER INFORMATION CONTACT: Maria Ellis, Executive Secretary for MEDCAC, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, Coverage and Analysis Group, S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244 or contact Ms. Ellis by phone (410–786–0309) or via email at *Maria.Ellis@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

MEDCAC, formerly known as the Medicare Coverage Advisory Committee (MCAC), provides advice and recommendations to CMS regarding clinical issues. (For more information on MCAC, see the December 14, 1998 **Federal Register** (63 FR 68780)). This notice announces the Tuesday, March 24, 2015, public meeting of the Committee. During this meeting, the Committee will discuss selected molecular pathology tests for the estimation of prognosis in common cancers (adenocarcinoma of the colon and rectum, breast cancer—invasive duct and lobular cancers, non-small cell lung cancers). Background information about this topic, including panel materials, is available at *http://www.cms.gov/medicare-coverage-database/indexes/medcac-meetings-index.aspx?bc=BAAAAAAAAAAA&.* We will no longer be providing paper copies of the handouts for the meeting. Electronic copies of all the meeting materials will be on the CMS Web site no later than 2 business days before the meeting. We encourage the participation of appropriate organizations with expertise in selected molecular pathology tests for the estimation of prognosis in the above mentioned common cancers.

II. Meeting Format

This meeting is open to the public. The Committee will hear oral presentations from the public for approximately 45 minutes. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, we may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by March 2, 2015. Your comments should focus on issues specific to the list of topics that we have proposed to the Committee. The list of research topics to be discussed at the meeting will be available on the following Web site prior to the meeting: *http://www.cms.gov/medicare-coverage-database/indexes/medcac-meetings-index.aspx?bc=BAAAAAAAAAAA&.* We require that you declare at the meeting whether you have any financial involvement with manufacturers (or their competitors) of any items or services being discussed. Speakers presenting at the MEDCAC meeting must include a full disclosure slide as their second slide in their presentation for financial interests (for example, type of financial association—consultant, research support, advisory board, and an indication of level, such as minor association < $10,000 or major association > $10,000) as well as intellectual conflicts of interest (for example, involvement in a federal or nonfederal advisory committee that has discussed the issue) that may pertain in any way to the subject of this meeting. If you are representing an organization, we require that you also disclose conflict of interest information for that organization. If you do not have a PowerPoint presentation, you will need to present the full disclosure information requested previously at the beginning of your statement to the Committee.

The Committee will deliberate openly on the topics under consideration. Interested persons may observe the deliberations, but the Committee will not hear further comments during this time except at the request of the

chairperson. The Committee will also allow a 15-minute unscheduled open public session for any attendee to address issues specific to the topics under consideration. At the conclusion of the day, the members will vote and the Committee will make its recommendation(s) to CMS.

III. Registration Instructions

CMS' Coverage and Analysis Group is coordinating meeting registration. While there is no registration fee, individuals must register to attend. You may register online at *http://www.cms.gov/apps/events/upcomingevents.asp?strOrderBy=1&type=3* or by phone by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the deadline listed in the **DATES** section of this notice. Please provide your full name (as it appears on your state-issued driver's license), address, organization, telephone number(s), fax number, and email address. You will receive a registration confirmation with instructions for your arrival at the CMS complex or you will be notified that the seating capacity has been reached.

IV. Security, Building, and Parking Guidelines

This meeting will be held in a federal government building; therefore, federal security measures are applicable. We recommend that confirmed registrants arrive reasonably early, but no earlier than 45 minutes prior to the start of the meeting, to allow additional time to clear security. Security measures include the following:

- Presentation of government-issued photographic identification to the Federal Protective Service or Guard Service personnel.
- Inspection of vehicle's interior and exterior (this includes engine and trunk inspection) at the entrance to the grounds. Parking permits and instructions will be issued after the vehicle inspection.
- Inspection, via metal detector or other applicable means, of all persons entering the building. We note that all items brought into CMS, whether personal or for the purpose of presentation or to support a presentation, are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for presentation or to support a presentation.

Note: Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting. The public may not enter the building earlier than 45 minutes prior to the convening of the meeting. All visitors must be escorted in areas other than the lower and first floor levels in the Central Building.

Authority: 5 U.S.C. App. 2, section 10(a).

Dated: January 9, 2015.

Patrick Conway,

Deputy Administrator for Innovation and Quality and CMS Chief Medical Officer. Centers for Medicare & Medicaid Services.

[FR Doc. 2015–00935 Filed 1–22–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB No.: 0970–0401.

Description: Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that the Administration for Children and Families' programs are effective and meet our customers' needs we use a generic clearance process to collect qualitative feedback on our service delivery. This collection of information is necessary to enable ACF to garner customer and stakeholder feedback in an efficient timely manner, in accord with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient and satisfying experience with the programs. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or change in operation might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between ACF and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

This request is an extension of the ''generic fast-track'' process offered to all government agencies by OMB in 2010. Fast-track means each request receives approval five days after submission, if no issues are brought to ACF's attention by OMB within the five days.

Respondents: Individuals, State and Local Governments, and Tribes.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Survey	3000	1	0.5	2500

Estimated Total Annual Burden Hours:

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Email: OIRA_SUBMISSION@OMB.EOP.GOV, Attn:*

Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2015–01122 Filed 1–22–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number 93.645]

Correction to the Notice of Allotment Percentages to States for Child Welfare Services State Grants

AGENCY: Administration on Children, Youth and Families, Administration for Children and Families, Department of Health and Human Services.

ACTION: Notice; correction.

SUMMARY: The Administration on Children, Youth and Families, Administration on Children and Families published a document in the **Federal Register** of November 28, 2014, concerning the biennial publication of allotment percentages for States under Title IV–B subpart 1, Child Welfare Services State Grants Program. The document contained an incorrect allotment percentage for the District of Columbia.

FOR FURTHER INFORMATION CONTACT: Deborah Bell, Grants Fiscal Management Specialist, Office of Grants Management, Office of Administration, Administration for Children and Families, telephone (202) 401–4611.

Correction: In the **Federal Register** of November 28, 2014, in FR. Doc. 2014–28135, on page 70873, in the second column, correct the ''Allotment Percentage'' for the District of Columbia from ''14.17'' to ''30.00.''

Melody Wayland,

Senior Grants Policy Specialist, Office of Administration.

[FR Doc. 2015–01106 Filed 1–22–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0312]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Extralabel Drug Use in Animals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by February 23, 2015.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0325. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Road; COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Extralabel Drug Use in Animals—21 CFR 530 (OMB Control Number—0910–0325)—(Extension)

The Animal Medicinal Drug Use Clarification Act of 1994 allows a veterinarian to prescribe the extralabel use of approved new animal drugs. Also, it permits FDA, if it finds that there is a reasonable probability that the extralabel use of an animal drug may present a risk to the public health, to establish a safe level for a residue from the extralabel use of the drug, and to require the development of an analytical method for the detection of residues above that established safe level. Although to date we have not established a safe level for a residue from the extralabel use of any new animal drug and, therefore, have not required the development of analytical methodology, we believe that there may be instances when analytical methodology will be required. We are, therefore, estimating the reporting burden based on two methods being required annually. The requirement to establish an analytical method may be fulfilled by any interested person. We believe that the sponsor of the drug will be willing to develop the method in most cases. Alternatively, FDA, the sponsor, and perhaps a third party may cooperatively arrange for method development. The respondents may be sponsors of new animal drugs, State, or Federal and/or State Agencies, academia, or individuals.

In the **Federal Register** of November 4, 2014 (79 FR 65408), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
530.22(b)	2	1	2	4,160	8,320

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: January 16, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–01113 Filed 1–22–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0915]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry on Postmarketing Adverse Event Reporting for Nonprescription Human Drug Products Marketed Without an Approved Application

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the FDA guidance for industry on ''Postmarketing Adverse Event Reporting for Nonprescription Human Drug Products Marketed Without an Approved Application.'' This guidance document provides recommendations on postmarketing serious adverse event reporting for nonprescription (over-the-counter) human drugs marketed without an approved application. It provides recommendations on the minimum data elements that should be included in a serious adverse event report, the label that should be included with the report, reporting formats for paper and electronic submissions, and how and where to submit the reports.

DATES: Submit either electronic or written comments on the collection of information by March 24, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA 305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry on Postmarketing Adverse Event Reporting for Nonprescription Human Drug Products Marketed Without an Approved Application (OMB Control Number 0910–0636)—Extension

Respondents to this collection of information are manufacturers, packers, and distributors whose name (under section 502(b)(1) (21 U.S.C. 352(b)(1)) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act)) appears on the label of a nonprescription drug marketed in the United States. FDA is requesting public comment on estimates of annual submissions from these respondents, as required by the Dietary Supplement and Nonprescription Drug Consumer Protection Act (Pub. L. 109–462) and described in the guidance. The guidance document discusses what should be included in a serious adverse drug event report submitted under section 760(b)(1) (21 U.S.C. 379aa(b)(1)) of the FD&C Act, including follow-up reports under 760(c)(2) (21 U.S.C. 379aa(c)(2)) of the FD&C Act, and how to submit these reports. The estimates for the annual reporting and recordkeeping burdens are based on FDA data on the number of adverse drug experience reports submitted for nonprescription drug products marketed without an approved application, including FDA's knowledge about the time needed to prepare the reports and to maintain records.

Based on FDA data, we estimate between 10,000 and 15,000 (*i.e.,* approximately 12,500) total annual responses from approximately 50 respondents for nonprescription drugs marketed without an approved application, and we also estimate that each submission will take approximately 2 hours to prepare and submit.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Reports of serious adverse drug events (21 U.S.C. 379aa((b) and (c))	50	250	12,500	2	25,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Section 760(e) (21 U.S.C. 379aa(e) of the FD&C Act also requires that responsible persons maintain records of nonprescription adverse event reports, whether or not the event is serious, for a period of 6 years. The guidance document recommends that respondents maintain records of efforts to obtain the minimum data elements for a report of a serious adverse drug event and any follow-up reports. We estimate that there are approximately 20,000 records per year maintained by approximately 200 respondents, and that it takes approximately 5 hours to maintain each record.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Recordkeeping (21 U.S.C. 379aa(e)(1))	200	100	20,000	5	100,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Therefore, the estimated annual reporting burden for this information is 25,000 hours and the estimated annual recordkeeping burden is 100,000 hours.

Dated: January 15, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–01111 Filed 1–22–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Request for Nominations for Voting Members on a Public Advisory Committee; Science Board to the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for members to serve on the Science Board to the Food and Drug Administration, Office of the Commissioner, Office of the Chief Scientist. FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore, encourages nominations of appropriately qualified candidates from these groups.

DATES: Nominations received on or before March 24, 2015 will be given first consideration for membership on the Science Board to the Food and Drug Administration. Nominations received after March 24, 2015 will be considered for nomination to the committee as later vacancies occur.

ADDRESSES: All nominations for membership should be sent electronically by logging into the FDA Advisory Nomination Portal: *http://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm* or by mail to Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002.

FOR FURTHER INFORMATION CONTACT: Regarding all nomination questions for membership, the primary contact is: Martha Monser, Office of the Chief Scientist, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 3309, Silver Spring, MD 20993–0002, 301–796–4627, *martha.monser@fda.hhs.gov*.

Information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's Web site by using the following link: *http://www.fda.gov/AdvisoryCommittees/default.htm.*

SUPPLEMENTARY INFORMATION: FDA is requesting nomination for voting members on the Science Board to the Food and Drug Administration.

I. General Description of the Committee Duties

The Science Board shall provide advice to the Commissioner and other appropriate officials on specific complex scientific and technical issues important to FDA and its mission, including emerging issues within the scientific community. Additionally, the Science Board will provide advice that supports the Agency in keeping pace with technical and scientific developments, including in regulatory science, provide input into the Agency's research agenda, and on upgrading its scientific and research facilities and training opportunities. It will also provide, where requested, expert review of Agency sponsored intramural and extramural scientific research programs.

II. Criteria for Voting Members

The committee consists of a core of 21 voting members including the chair and a co-chair. Members, the chair and the co-chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of: Food science, safety, and nutrition; chemistry, pharmacology, translational and clinical medicine and research, toxicology, biostatistics, medical devices, imaging, robotics, cell and tissue based products, regenerative medicine, public health and epidemiology, international health and regulation, product safety, product manufacturing sciences and quality; and other scientific areas relevant to FDA regulated products such as systems biology, informatics, nanotechnology, and combination products. Almost all non-Federal members of this committee serve as Special Government Employees. Members will be invited to serve for terms of up to 4 years.

III. Nomination Procedures

Any interested person may nominate one or more qualified individuals for membership on the advisory committee. Self-nominations are also accepted. Nominations must include a current, complete resume or curriculum vitae for each nominee, including current business address and/or home address, telephone number, and email address if available. Nominations must also specify the advisory committee for which the nominee recommended. Nominations must also acknowledge that the nominee is aware of the nomination unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters related to financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflicts of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: January 15, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–01114 Filed 1–22–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 79 FR 75164–75165 dated December 17, 2014).

This notice reflects organizational changes in the Health Resources and Services Administration (HRSA), Healthcare Systems Bureau (HSB). Specifically, this notice: (1) Updates the functional statement for the Division of National Hansen's Disease Programs (RRH).

Chapter RR—Healthcare Systems Bureau

Section RR—00, Mission

The Healthcare Systems Bureau (HSB) protects the public health and improves the health of individuals through an array of programs that provide national leadership and direction in targeted areas.

Section RR–20, Functions

Delete the functional statement for the Division of National Hansen's Disease Programs (RRH) in its entirety and replace with the following:

Division of National Hansen's Disease Programs (RRH)

The National Hansen's Disease Programs (NHDP) in accordance with regulations of the Public Health Service (PHS) Act, Sec. 320 as amended by Sec. 211, PL105–78); (1) provides care and treatment for persons with Hansen's Disease (leprosy), including managing a national short-term and outpatient health care delivery program providing specialized services to persons with Hansen's Disease; (2) conducts and promotes the coordination of research (including clinical research), investigations, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of Hansen's disease and other mycobacterial diseases and complications related to such diseases; (3) conducts training in the diagnosis and management of Hansen's disease and related complications; (4) provides education and training to staff from the outpatient Hansen's Disease Clinics and private physicians; (5) operates and oversees the National Hansen's Disease Museum and Cemetery; (6) consults on the coordination of activities within HRSA and HHS, and with other federal agencies, state and local governments, and other public and private organizations involved in Hansen's Disease activities; and (7) manages a network of outpatient clinics through contracts providing care to persons with Hansen's Disease.

Section RR–30, Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is effective upon date of signature.

Dated: January 16, 2015.

Mary K. Wakefield,

Administrator.

[FR Doc. 2015–01131 Filed 1–22–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Application (P01).

Date: February 19, 2015.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Eleazar Cohen, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health, NIAID, 5601 Fishers Lane, Rockville, MD 20892, 240–669–5881, *ec17w@nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01).

Date: February 23, 2015.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3F100, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Quirijn Vos, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, DHHS/NIH/NIAID, 5601 Fishers Lane, Rockville, MD 20892, 240–669–5059, *qvos@niaid.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01).

Date: February 26, 2015.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Eleazar Cohen, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health, NIAID, 5601 Fishers Lane, Rockville, MD 20892, 240–669–5881, *ec17w@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 16, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01087 Filed 1–22–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; DDK–D Member Conflict SEP.

Date: February 6, 2015.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, MD, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; KUH-Fellowship Review.

Date: February 6, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, MD, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; DDK–C Conflicts.

Date: February 18–19, 2015.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 760, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; R24 Review: Nephrogenesis.

Date: February 26, 2015.

Time: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Barbara A. Woynarowska, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 402–7172, *woynarowskab@niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 16, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01086 Filed 1–22–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Arthritis and Musculoskeletal and Skin Diseases Initial Review Group; Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee.

Date: February 26–27, 2015.

Time: 6:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Rockville Hotel & Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Helen Lin, Ph.D., Scientific Review Officer, NIH/NIAMS/RB, 6701 Democracy Blvd., Suite 814, Bethesda, MD 20817, 301–594–4956, *linh1@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: January 16, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01082 Filed 1–22–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel Exploratory Clinical Trials of Mind and Body Interventions for NCCAM High Priority Research Topics (R34).

Date: February 27, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Rd. NW., Washington, DC 20015.

Contact Person: Deborah Ismond, Ph.D., Scientific Review Officer, Office of Scientific Review, NCCIH, National Institutes of Health, 6707 Democracy Blvd., Room 800, Bethesda, MD 20892, 301.594.2704, *ismonddr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: January 16, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01083 Filed 1–22–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Synthetic Psychoactive Drugs and Strategic Approaches To Counteract Their Deleterious Effects.

Date: February 12, 2015.

Time: 1:00 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Nicholas Gaiano, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Nephrology.

Date: February 17, 2015.

Time: 11:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mushtaq A Khan, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, 301–435–1778, *khanm@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Immunity and Host Defense Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Woodland Hills, 6360 Canoga Avenue, Woodland Hills, CA 91367.

Contact Person: Scott Jakes, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7812, Bethesda, MD 20892, 301–435–1506, *jakesse@mail.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Chronic Dysfunction and Integrative Neurodegeneration Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW. Washington, DC 20015.

Contact Person: Alexei Kondratyev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–435–1785, *kondratyevad@csr.nih.gov.*

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Molecular Oncogenesis Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco, 700 F Street NW.. Washington, DC 20001.

Contact Person: Nywana Sizemore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6204, MSC 7804, Bethesda, MD 20892, 301–435–1718, *sizemoren@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neural Oxidative Metabolism and Death Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Best Western Tuscan Inn, 425 North Point Street, San Francisco, CA 94133.

Contact Person: Carol Hamelink, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7850, Bethesda, MD 20892, (301) 213–9887, *hamelinc@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Gastrointestinal Mucosal Pathobiology Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Jonathan K Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2190, MSC 7850, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroimmunology and Brain Tumors Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Jay Joshi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 408–9135, *joshij@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Auditory System Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Baltimore Marriott Waterfront, 700 Aliceanna Street, Baltimore, MD 21202.

Contact Person: Lynn E Luethke, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5166, MSC 7844, Bethesda, MD 20892, (301) 806–3323, *luethkel@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Mechanisms of Emotion, Stress and Health Study Section.

Date: February 19–20, 2015.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Georgetown, 2350 M Street NW., Washington, DC 20037.

Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, (301) 594–3163, *champoum@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Vaccines Against Microbial Diseases Study Section.

Date: February 19–20, 2015.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Woodland Hills, 6360 Canoga Avenue, Woodland Hills, CA 91367.

Contact Person: Jian Wang, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7812, Bethesda, MD 20892, (301) 435–2778, *wangjia@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Adult Psychopathology and Disorders of Aging Study Section.

Date: February 19–20, 2015.

Time: 8:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza National Airport, 1480 Crystal Drive, Arlington, VA 22202.

Contact Person: Serena Chu, Ph.D., Scientific Review Officer, BBBP IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 500–5829, *sechu@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 15, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01088 Filed 1–22–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Rare Disease.

Date: March 16–17, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Raul A. Saavedra, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223, *saavedrr@ninds.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: January 16, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01089 Filed 1–22–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; NIAMS Small Grant Program for New Investigators (R03).

Date: February 18–19, 2015.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Suite 820, Bethesda, MD 20892.

Contact Person: Xincheng Zheng, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 820, Bethesda, MD 20892, 301–451–4838, *xincheng.zheng@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: January 16, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01084 Filed 1–22–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Cardiac Contractility, Hypertrophy, and Failure Study Section.

Date: February 12–13, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Olga A. Tjurmina, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4030B, MSC 7814, Bethesda, MD 20892, (301) 451–1375, *ot3d@nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Infectious Diseases, Reproductive Health, Asthma and Pulmonary Conditions Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Hotel—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Lisa Steele, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 257–2638, *steeleln@csr.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function A Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Pier 2620 Hotel, 2620 Jones Street, San Francisco, CA 94133.

Contact Person: Nitsa Rosenzweig, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7760, Bethesda, MD 20892, (301) 404–7419, *rosenzweign@csr.nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Nursing and Related Clinical Sciences Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Dupont Hotel, 1500 New Hampshire Avenue NW., Washington, DC 20036,

Contact Person: Priscah Mujuru, DRPH, BSN, COHNS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, 301–594–6594, *mujurup@mail.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Myocardial Ischemia and Metabolism Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.

Contact Person: Kimm Hamann, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118A, MSC 7814, Bethesda, MD 20892, 301–435–5575, *hamannkj@csr.nih.gov*.

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Tumor Cell Biology Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Charles Morrow, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, 301–408–9850, *morrowcs@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Glia Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Lorien Hotel & Spa, 1600 King Street, Alexandria, VA 22314.

Contact Person: Carole L. Jelsema, Ph.D., Chief and Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7850, Bethesda, MD 20892, (301) 435–1248, *jelsemac@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Cellular Mechanisms in Aging and Development Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: JW Marriott New Orleans, 614 Canal Street, New Orleans, LA 70130.

Contact Person: John Burch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 3213, MSC 7808, Bethesda, MD 20892, 301–408–9519, *burchjb@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Cellular, Molecular and Integrative Reproduction Study Section.

Date: February 19, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Gary Hunnicutt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–435–0229, *hunnicuttgr@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Biology of the Visual System Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael H. Chaitin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Drug Discovery and Mechanisms of Antimicrobial Resistance Study Section.

Date: February 19–20, 2015.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA 94102.

Contact Person: Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7808, Bethesda, MD 20892, 301–435–1146, *jig@csr.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genetics of Health and Disease Study Section.

Date: February 19–20, 2015.

Time: 8:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Cheryl M. Corsaro, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Cellular and Molecular Immunology—A Study Section.

Date: February 19–20, 2015.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Woodland Hills, 6360 Canoga Avenue, Woodland Hills, CA 91367.

Contact Person: David B. Winter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1152, *dwinter@mail.nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Community Influences on Health Behavior Study Section.

Date: February 19–20, 2015.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: New Orleans Marriott Convention Center, 859 Convention Center Boulevard, New Orleans, LA 70130.

Contact Person: Wenchi Liang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, 301–435–0681, *liangw3@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 16, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01085 Filed 1–22–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Refugee Resettlement; Statement of Organization, Functions, and Delegations of Authority.

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: Statement of Organization, Functions, and Delegations of Authority

The Administration for Children and Families (ACF) has reorganized the Office of Refugee Resettlement (ORR). This notice announces a realignment of functions to create a Division of Policy within the Office of the Director in ORR. This realignment of functions within ORR serves to coordinate and centralize the policy function within ORR to provide for policy uniformity and consistency, allow greater staff flexibility, and better reflect the current work environment and priorities within ORR. The statement of organization, functions, and delegations of authority conforms to and carries out the statutory requirements for operating ORR.

This notice amends Part K of the Statement of Mission, Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS), ACF as follows: Chapter KR, ORR (76 FR 70149–70150), as last amended November 10, 2011.

I. Under Chapter KR, ORR, delete KR.10 Organization, in its entirety and replace with the following:

KR.10 Organization. ORR is headed by a Director, who reports to the Assistant Secretary for Children and Families. The Office is organized as follows:

Office of the Director (KRA)
Division of Policy (KRA1)
Division of Refugee Assistance (KRE)
Division of Refugee Services (KRF)
Division of Children's Services (KRH)
Division of Anti-Trafficking in Persons (KRI)
Division of Refugee Health (KRJ)

II. Under Chapter KR, ORR, delete KR.20 Functions, in its entirety and replace with the following:

KR.20 Functions.

A. The Office of the Director is directly responsible to the Assistant Secretary for Children and Families for carrying out ORR's mission and providing guidance and general supervision to the components of ORR. The office provides direction in the development of general supervision to the components of ORR. The office provides direction in the development of program policy and budget and in the formulation of salaries and expense budgets. Staff also provide administrative and personnel support services.

The Office of the Director coordinates with the lead refugee and entrant program offices of other federal departments; provides leadership in representing refugee and entrant programs, policies, and administration to a variety of governmental entities and other public and private interests; and acts as the coordinator of the total refugee and entrant resettlement effort for ACF and the Department. The office oversees the care and custody of unaccompanied alien children, grants specific consent for those who wish to invoke the jurisdiction of a state court for a dependency order to seek Special Immigrant Juvenile status, and makes determinations of eligibility for the Unaccompanied Refugee Minors Program.

The Office of the Director prepares annual budget estimates and related materials; and develops regulations, legislative proposals, and routine interpretations of policy as they relate to each of the program areas. The office performs allocation and tracking of funds for all programs. The office collects data and performs analysis on the changing needs of the refugee and entrant population, provides leadership to identify data needs and sources, and formulates data and reporting requirements.

Within the Office of the Director, the Division of Policy is comprised of a Director of Policy and professional staff with expertise in all areas of ORR programming, including staff that handle high profile projects or multi-program functions. The Division of Policy assesses and evaluates ORR programs and their legal authorities and proactively recommends policy development, regulation updates and changes, and operational and management actions to comply with statutory parameters. The division advises the ORR Director, deputies, division directors, and regional staff on a wide range of significant and sensitive policy-related matters and strategies for attaining ORR policy objectives. The division identifies major emerging policy issues, develops policy options and strategies, and implements policy initiatives, including the drafting of policies, guidance, and regulations. The Division of Policy also leads the office in the development of strategic goals and objectives and ensures that policies and operational and management activities are designed to achieve ORR, ACF, and Department goals.

The Division of Policy develops clearance and informational memoranda, briefing materials, and summary statements for ORR, ACF, and Department leadership on complex and sensitive ORR matters. The division collaborates with the ORR operating divisions and regional staff to clarify and enhance existing policies and guidance, particularly in areas where the work of two or more divisions and the regions overlap.

The Division of Policy serves as the ORR point of contact for other ACF and HHS offices related to legal, congressional, and evaluation issues, such as the Office of the General Counsel, Office of Legislative Affairs and Budget, Government Accountability Office, and Office of Inspector General. The division represents ORR on interagency working groups and collaborates with both government and private sector leaders on ORR policy-related issues and developments.

Within the Office of the Director, the Deputy Director assumes the Director's responsibilities in the absence of the Director and provides oversight to the Division of Refugee Health, Division of Refugee Services, and the Division of Refugee Assistance.

The Associate Deputy Director provides oversight to the Division of Children's Services and the Division of Anti-Trafficking in Persons.

B. The Division of Refugee Assistance represents ORR in coordinating services and capacity for refugees in a manner that helps refugees become employed and economically self-sufficient soon after their arrival in the United States. The division monitors and provides technical assistance to the state-administered domestic assistance programs and Wilson/Fish projects. The Division works closely with each state in designing a resettlement program specific to the needs of incoming populations. The division develops guidance and procedures for their implementation and manages special initiatives to increase refugee self-sufficiency, such as through state-funded discretionary grants or pilot programs. The division also assists public and private agencies on data reporting and the resolution of reporting problems. The division develops and supports the flow of information on refugee profiles and community resources in support of effective placement at the state and local level. The division works closely with the Department of State to ensure effective and seamless orientation from overseas to local resettlement community. The division manages the effective allocation of formula social services and targeted assistance in support of newly arriving populations. The division tracks all state costs related to refugee assistance.

C. The Division of Refugee Services directs and manages effective refugee resettlement through the programmatic implementation of grants, contracts, and special initiatives, such as the Matching Grant Program. The division oversees and monitors most ORR discretionary grants, recommends grantee allocation, coordinates with the grants management office to review the financial expenditures under discretionary grant programs, provides data in support of apportionment requests, and provides technical assistance on discretionary grants operations. The division coordinates and provides liaison with the Department and other federal agencies on discretionary grant operational issues and other activities as specified by the Director or required by congressional mandate. The division responds to unanticipated refugee and entrant arrivals or significant increases in arrivals to communities where adequate or appropriate services do not exist through supplemental initiatives. The division works to promote economic independence among refugees through social services, educational services, and intensive case management and community development initiatives.

D. The Division of Children's Services supports services to unaccompanied children who are referred to ORR for care as refugees, asylees, Cuban and Haitian entrants, children granted Special Immigrant Juvenile Visas and those pending immigration status, or identified as victims of trafficking. The division implements intake and placement decisions for all unaccompanied refugee and alien children. The division supports specialized care through grants, contracts, and state-administered unaccompanied minors programs. The division conducts monitoring and inspections of facilities and placement locations in which unaccompanied children reside. The division also

maintains statistical information and data on each child and any actions concerning the child while the child is under the Director's care.

The division ensures consideration of the child's best interest in care and custody decisions. The division coordinates all decisions related to sponsor reunification, background checks, home assessments, follow-up services, medical assessment and treatment, sponsorship breakdowns, repatriation, and movement of children into the Unaccompanied Refugee Minors Program.

The division develops policy to ensure all children's programs are administered in a manner that ensures the best interest of the child; and that services are administered in a manner that supports child welfare standards of care and services to include training, accreditation, legal services, assessment, and trauma-related initiatives.

The division administers the pro bono legal services and child advocate program and compiles a state-by-state list of professionals or entities qualified to provide the children with a guardian and attorney representational services.

E. The Division of Anti-Trafficking in Persons is responsible for implementing certain provisions of the Trafficking Victims Protection Act. The division coordinates the certification of and services to victims of severe forms of trafficking, promotes public awareness on human trafficking, and increases identification of potential victims of severe forms of trafficking. The division manages these activities through grants and contracts. It also coordinates with other federal government agencies on certification activities and policy issues related to the trafficking laws. The division certifies victims of severe forms of trafficking following consultation with appropriate federal and state government agencies and social service agencies. The division coordinates with the appropriate entities for the determination and placement of identified and certified unaccompanied minor victims of trafficking. It maintains statistical information and data on each victim, including certification documentation and services provided. The division compiles an annual report, in coordination with other federal agencies, on the number of certifications issued to and services accessed by identified victims.

F. The Division of Refugee Health provides direction for assuring that refugees are provided medical assistance and mental health services through the state-administered program and alternative programs such as the Wilson/Fish projects. The division ensures the quality of medical screening and initial medical treatment of refugees through its administration of grant programs, technical assistance, and interagency agreements in support of comprehensive medical and mental health services. The division supports coordination of services to refugees under the Affordable Care Act. The division also supports mental health services to victims of torture.

The Division works closely with State Refugee Health Coordinators in the planning and provision of medical and mental health services to meet the individual needs of incoming populations. The division tracks all state costs related to refugee medical assistance and screening.

FOR FURTHER INFORMATION CONTACT: Eskinder Negash, Director, Office of Refugee Resettlement, Administration for Children and Families, 901 D Street SW., Washington, DC 20447, (202) 401–9246.

Dated: January 15, 2015.

Mark Greenberg,

Acting Assistant Secretary for Children and Families.

[FR Doc. 2015–01125 Filed 1–22–15; 8:45 am]

BILLING CODE 4120–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5828–N–04]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: January 15, 2015.

Brian P. Fitzmaurice,

Director, Division of Community Assistance, Office of Special Needs Assistance Programs.

[FR Doc. 2015–00890 Filed 1–22–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

U.S. Coral Reef Task Force Public Meeting and Public Comment

AGENCY: Office of Policy and International Affairs, Department of the Interior.

ACTION: Notice of public meeting; request for public comment.

SUMMARY: We, the U.S. Department of the Interior, announce a public meeting of the U.S. Coral Reef Task Force and a request for written comments. This meeting, the 33rd biannual meeting of the task force, provides a forum for coordinated planning and action among Federal agencies, State and territorial governments, and nongovernmental partners.

DATES: *Meeting Dates:* February 19, 2015. *Advance Public Comments:* Submit by January 28, 2015.

ADDRESSES: Meetings will be held at the Department of Interior, South Interior Building, 1951 Constitution Avenue NW., Washington, DC 20245.

FOR FURTHER INFORMATION CONTACT: Cheryl Fossani, DOI U.S. Coral Reef Task Force Steering Committee Executive Secretary, U.S. Department of the Interior, MS–3530–MIB, 1849 C Street NW., Washington, DC 20240 (phone: 202–208–5004; fax: 202–208–4867; email: *cheryl_fossani@ios.doi.gov*); or visit the USCRTF Web site at *www.coralreef.gov.*

SUPPLEMENTARY INFORMATION: Established by Presidential Executive Order 13089 in 1998, the U.S. Coral Reef Task Force has a mission to lead, coordinate, and strengthen U.S. government actions to better preserve and protect coral reef ecosystems. The Departments of Commerce and the Interior co-chair the task force, whose members include leaders of 12 Federal agencies, 2 U.S. States, 5 U.S. territories, and 3 freely associated States. For more

information about the meetings, draft agendas, and how to register, go to *www.coralreef.gov.* A written summary of the meeting will be posted on the Web site after the meeting.

Registration To Attend the Meeting

Attendees can register online before the start of the meeting, or on site at the registration desk. Registration details will be announced on the task force Web site at *www.coralreef.gov.*

Public Comments

Comments may address the meeting, the role of the USCRTF, or general coral reef conservation issues. Copies of comments given at the meeting can be submitted afterwards in writing to Cheryl Fossani by email, fax, or mail (see **FOR FURTHER INFORMATION CONTACT**) by January 28, 2015.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 15, 2015.

Liza M. Johnson,

Ocean, Coasts, and Great Lakes Coordinator, U.S. Department of the Interior.

[FR Doc. 2015–01092 Filed 1–22–15; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2015–N016; FF08E00000–FXES11120800000–145]

Draft Environmental Assessment and Proposed Wright Solar Park Multi-Species Habitat Conservation Plan, Merced County, California; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; correction.

SUMMARY: We, the U.S. Fish and Wildlife Service, correct a typographical error in a recently published notice that announced the availability of the draft environmental assessment (DEA) and the draft Proposed Wright Solar Park Multi-Species Habitat Conservation Plan (HCP). Due to the inadvertent typographical error, the prior notice mischaracterized the species for which the applicant seeks a permit. The error was not in the DEA or the HCP, but only in one section of our previous **Federal Register** notice. If you requested documents for review, you need not request them again. If you submitted comments, you need not resubmit them.

DATES: To ensure consideration, please send your written comments by March 16, 2015.

FOR FURTHER INFORMATION CONTACT: Mike Thomas, Chief, Conservation Planning Division, or Eric Tattersall, Deputy Assistant Field Supervisor, at the address in **ADDRESSES** or at (916) 414–6600 (telephone). If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

On January 13, 2015, we published a notice in the **Federal Register** (80 FR 1660) making available for public comment a draft environmental assessment (EA) under the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 *et seq.*), in response to an application from Wright Solar Park, LLC (the applicant) for an incidental take permit (ITP) pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.;* Act). The applicant prepared the draft Wright Solar Park Habitat Conservation Plan (HCP) to describe and implement a conservation plan that will minimize and mitigate environmental effects associated with the construction, operation, maintenance, and decommissioning of an up-to-200-megawatt photovoltaic power generating facility and implementation of conservation actions associated with the HCP in Merced County, California. We announced a 60-day public comment period on the permit application, including the draft EA and the proposed HCP. We requested data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party.

For More Information

The January 13, 2015, notice provided information about Wright Solar Park HCP and our draft EA prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Please refer to that notice for further information, including details about public meetings, ways to obtain copies of the documents, and comment submission.

Correction

Due to an inadvertent typographical error, the January 13, 2015, **Federal Register** notice did not accurately reflect the species for which we will consider issuing incidental take. In the Next Steps section, the current notice states: ''If we determine that those requirements are met, we will issue a permit to the applicant for the incidental take of desert tortoise.'' This sentence is incorrect and should read: ''If we determine that those requirements are met, we will issue a permit to the applicant for the incidental take of covered species.''

Please note that all the documents we made available from the date of publication of our earlier notice (January 13, 2015) are correct. If you already obtained any documents for review, you do not need to request new copies. If you already submitted comments, you need not resubmit them. The only error was a typographical error in the text of the **Federal Register** notice.

Dated: January 16, 2015.

Alexandra Pitts,

Deputy Regional Director, Pacific Southwest Region, Fish and Wildlife Service, Sacramento, California.

[FR Doc. 2015–01212 Filed 1–22–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZ91000.15X.L17110000.XP0000.6100.241A]

State of Arizona Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM), Arizona Resource Advisory Council (RAC) will meet in Phoenix, Arizona, as indicated below.

DATES: The Arizona RAC Business meeting will take place February 26, 2015, from 8:30 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held at the BLM Arizona State Office located at One North Central Avenue, Suite 800, Phoenix, Arizona 85004.

FOR FURTHER INFORMATION CONTACT: Dorothea Boothe, Arizona RAC Coordinator at the Bureau of Land

Management, Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427, 602–417–9504. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Arizona. Planned agenda items include: A welcome and introduction of Council members; BLM State Director's Update on BLM Programs and Issues; Rapid Ecoregional Assessments Overview; Sonoran Landscape Pilot Update; Law Enforcement Partnerships and Monument Resources in Southern Arizona; Reports by the RAC Working Groups; RAC Questions on BLM District Manager Reports; Recognition Ceremony for Glendon Collins (former Arizona RAC Member) and other items of interest to the RAC. Members of the public are welcome to attend the RAC Business meeting. A public comment period is scheduled from 11:30 a.m. to 12:00 p.m. for any interested members of the public who wish to address the Council on BLM programs and business. Depending on the number of persons wishing to speak and time available, the time for individual comments may be limited. Written comments may also be submitted during the meeting for the RAC's consideration. The final meeting agenda will be available two weeks prior to the meeting and posted on the BLM Web site at: *http://www.blm.gov/az/st/en/res/rac.html.* Additionally, directions to the meeting site and parking information may be found on the BLM Web site at: *http://www.blm.gov/az/st/en/res/pub_room/location.html.* Individuals who need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the RAC Coordinator listed above no later than two weeks before the start of the meeting.

Under the Federal Lands Recreation Enhancement Act, the RAC has been designated as the Recreation RAC (RRAC) and has the authority to review all BLM and Forest Service recreation fee proposals in Arizona. The RRAC will not review recreation fee program proposals at this meeting.

Raymond Suazo,

Arizona State Director.

[FR Doc. 2015–01210 Filed 1–22–15; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOS06000 L12200000.DU0000]

Notice of Final Supplementary Rules for Travel Management on Public Lands in Gunnison, Montrose, Hinsdale, and Saguache Counties, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Final Supplementary Rules.

SUMMARY: The Bureau of Land Management (BLM) in Colorado is finalizing supplementary rules for public lands addressed in the Gunnison Basin Federal Lands Travel Management Plan (TMP), approved on June 28, 2010. These final supplementary rules apply to public lands administered by the BLM Gunnison Field Office in Gunnison, Montrose, Hinsdale, and Saguache counties, Colorado. The final rules implement decisions found in the TMP relating to the use of motorized and non-motorized vehicles.

DATES: These supplementary rules are effective February 23, 2015.

ADDRESSES: You may send inquiries by the following methods: Mail or hand deliver to Kristi Murphy, Outdoor Recreation Planner, BLM Gunnison Field Office, 210 West Spencer Street, Suite A, Gunnison, CO 81230. You may also send inquiries via email to *kmurphy@blm.gov* (include ''Final Supplementary Rules'' in the subject line).

FOR FURTHER INFORMATION CONTACT: Kristi Murphy, Outdoor Recreation Planner, at the above address, by phone at 970–642–4955, or by email at *kmurphy@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Background

Prior to 2010, the BLM Gunnison Field Office used the BLM's 1980 Transportation Plan and the 2001 Gunnison Interim Travel Plan to manage travel on BLM-managed lands. As required in the 2001 Travel Plan, the BLM and the U.S. Forest Service embarked on a planning process to develop a more definitive and comprehensive system of routes across Federal lands in the Gunnison Basin. The two agencies jointly published a Notice of Intent to Prepare an Environmental Impact Statement (EIS) in the **Federal Register** at 72 FR 24267 (May 2, 2007). They subsequently published the Gunnison Basin Federal Lands Travel Management Plan EIS (CO–160–2008–025–EIS). Following analysis of the public comments, the BLM issued a decision record on June 28, 2010. The 2010 TMP replaces the 1980 Transportation Plan and the 2001 Interim Travel Plan. These final supplementary rules enable the BLM to implement several key decisions contained in the 2010 TMP to protect natural resources and provide for public health and safety. No other existing rules are affected by these final supplementary rules. The proposed supplementary rules were published in the **Federal Register** at 78 FR 26804 on May 8, 2013, and the public comment period ended July 8, 2013. The final supplementary rules are consistent with the Decision Record for the TMP, which was approved on June 28, 2010.

These final supplementary rules apply to public lands administered by the BLM Gunnison Field Office. The 2010 TMP area consists of approximately 585,012 acres of public lands within Gunnison, Montrose, Hinsdale, and Saguache counties, Colorado, in the following described townships:

Sixth Principal Meridian

Tps. 11 S., Rs. 83 and 84 W., unsurveyed.
Tps. 11 S., Rs. 86 and 87 W., partly unsurveyed.
Tps. 12 S., Rs. 82 to 87 W., partly unsurveyed.
Tps. 13 S., Rs. 80 to 87 W., partly unsurveyed.
Tps. 14 S., Rs. 80 to 88 W., partly unsurveyed.
Tps. 15 S., Rs. 81 to 88 W., partly unsurveyed.

New Mexico Principal Meridian

Tps. 43 N., Rs. 1 and 2 E., partly unsurveyed.
Tps. 44 N., Rs. 1, 2, and 3 E., partly unsurveyed.
Tps. 45 N., Rs. 1, 2, and 3 E., partly unsurveyed.
Tps. 46 N., Rs. 1 to 4 E., partly unsurveyed.
Tps. 47 N., Rs. 1 to 7 E., partly unsurveyed.
Tps. 48 N., Rs. 1 to 7 E.

Tps. 49 N., Rs. 1 to 6 E.
Tps. 50 N., Rs. 1 to 6 E.
Tps. 51 N., Rs. 1 to 5 E.
Tps. 41 N., Rs. 5 and 6 W., unsurveyed.
Tps. 42 N., Rs. 3 to 6 W., partly unsurveyed.
Tps. 43 N., Rs. 1 to 7 W., partly unsurveyed.
Tps. 44 N., Rs. 1 to 6 W., partly unsurveyed.
Tps. 45 N., Rs. 1 to 6 W., partly unsurveyed.
Tps. 46 N., Rs. 1 to 6 W., partly unsurveyed.
Tps. 47 N., Rs. 1 to 6 W.
Tps. 48 N., Rs. 1 to 6 W.
Tps. 49 N., Rs. 1 to 6 W.
Tps. 50 N., Rs. 1 to 4 W.
Tps. 51 N., Rs. 1 to 4 W.

II. Discussion of Public Comments and Final Supplementary Rules

The BLM received comments from five parties. Upon review of the comments, the BLM made one minor change to the definition of the term ''existing travel routes,'' discussed below.

Two parties disagreed with the 2010 TMP decision and asked to keep more routes open to motorized and mechanized uses. Changing the 2010 TMP decision would be a separate action that would require additional site-specific environmental analysis and is outside the scope of these final supplemental rules.

Two parties expressed concern over possibly losing right-of-way (ROW) access across BLM-administered lands. The Decision Record for the 2010 TMP addressed ROW access. Supplementary rules do not affect access routes to maintain transmission lines or access private property because those roads and routes are (or will be as the ROWs are amended and/or renewed), covered under the appropriate BLM ROWs.

Another party suggested that the terms of the supplementary rules be consistent with TMP language. The party expressed concern that terms such as ''designated travel routes'' and ''existing travel routes'' could cause confusion, were too vague, or might lead to resource degradation when interpreting the exceptions allowed for travel off of designated roads. The proposed supplementary rule defined designated travel routes as roads and trails open to specified modes of travel and identified on a map of designated roads and trails that is maintained and available for public inspection at the BLM Gunnison Field Office. The commenter also asked the BLM to clarify that the 30-foot exception only applies when there is no existing route available. The commenter further suggested that additional restrictions regarding parallel travel routes and resource damage be added to the 30-foot exception. As the rule states, the exception for motorized travel off of designated roads is clearly for the purpose of parking or camping. In addition, the BLM has an existing rule (43 CFR 8341.1(f)(4)) that prohibits resource damage that would apply if parking is causing resource damage or if off-road travel is creating a parallel travel route. Such a restatement of the existing rules is not necessary and would be contrary to the BLM policy regarding the purpose of supplementary rules (WO IM–2013–161).

The same commenter was also concerned that people may travel further than 300 feet from a designated road on an existing route to camp or park. This commenter encouraged the BLM to sign, mark, and monitor existing dispersed campsites and to close routes that are more than 300 feet long or creating resource damage. It is the responsibility of public land users to know and follow the rules. As discussed in the 2010 TMP Decision Notice, the BLM will continue to conduct such monitoring and implementation as available funding, staff, materials, equipment, and volunteer resources allow. It would be impractical, as well as visually intrusive, for the BLM to mark this distance on each possible route off of designated roads.

The commenter was also concerned that the definition of ''existing travel route'' is too vague and could allow motorized use on the track left by front tires (followed by the rear tires) on game trails, cow paths, footpaths, single-track trails, and All-Terrain Vehicle trails. The commenter also suggested that the definition include a reference to a point in time, *e.g.,* when the decision was made. The BLM established and defined designated route travel in 2001 through the Gunnison Interim Travel Restrictions Decision (Decision Notice, April 2001), which restricted motorized and mechanized use (wheeled vehicles used for human transport) to established routes. Established routes are roads and trails recognized by the agencies as existing on the ground as of January 12, 2001, and receiving enough use to remain recognizable as a route. That restriction remains in place and is part of the existing condition. The definition of ''existing travel routes'' has been clarified in the final supplementary rule as requested.

Another commenter suggested changing the definition of camping to make a distinction between ''camping from a vehicle'' and ''camping from a pack.'' The definition of camping as used in the supplementary rules is for the purpose of describing an exception for motorized travel off of designated roads. For purposes of the supplementary rules, there is no need to differentiate backcountry camping from vehicle camping. The commenter was also concerned about subsequent on-the-ground actions the BLM may take to implement route closures that may prevent pedestrian use of closed routes. This is not within the scope of these supplementary rules as the rules only address motorized and mechanized travel.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These final supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. These final supplementary rules would not have an effect of $100 million or more on the economy. These final supplementary rules would not adversely affect in a material way the economy; productivity; competition; jobs; the environment; public health or safety; or State, local or tribal governments or communities. These final supplementary rules would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These final supplementary rules do not materially alter the budgetary effects of entitlements, grants, user fees or loan programs, or the rights or obligations of their recipients; nor do they raise novel legal or policy issues. These final supplementary rules would not affect legal commercial activity, but merely impose limitations on certain recreational activities on certain public lands to protect natural resources and human health and safety.

National Environmental Policy Act

These final supplementary rules implement key decisions in the 2010 TMP. During the National Environmental Policy Act (NEPA) review for the 2010 TMP, the BLM fully analyzed the substance of these final supplementary rules in an EIS (CO–160–2008–025–EIS). The BLM signed the Decision Record for the EIS on June 28, 2010. The 2010 TMP EIS and Decision Record and a subsequent Determination of NEPA Adequacy are on file in the BLM Gunnison Field Office at the address specified in the **ADDRESSES** section. The BLM finds that the EIS associated with the 2010 TMP is adequate for these supplementary rules.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that government regulations do not

unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These final supplementary rules would have no effect on business entities of any size. These final supplementary rules would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM has determined under the RFA that these final supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These final supplementary rules are not a ''major rule'' as defined at 5 U.S.C. 804(2). These final supplementary rules would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. These final supplementary rules would not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local agencies, or geographic regions; or

(3) Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

These final supplementary rules would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year; nor would these final supplementary rules have a significant or unique effect on State, local, or tribal governments or the private sector. The final supplementary rules would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

These final supplementary rules do not constitute a government action capable of interfering with constitutionally-protected property rights. The final supplementary rules would not address property rights in any form and would not cause the impairment of constitutionally-protected property rights. Therefore, the BLM has determined that these final supplementary rules would not cause a ''taking'' of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The final supplementary rules would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the BLM has determined that these final supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM Colorado State Director has determined that these final supplementary rules would not unduly burden the judicial system and that they meet the requirements of Sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that these final rules do not include policies that have tribal implications and would have no bearing on trust lands or on lands for which title is held in fee status by Indian tribes or U.S. Government-owned lands managed by the Bureau of Indian Affairs.

Information Quality Act

In developing these final supplementary rules, the BLM did not conduct or use a study, experiment or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106–554).

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These final supplementary rules do not comprise a significant energy action. These final supplementary rules would not have an adverse effect on energy supply, production, or consumption and have no connection with energy policy.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that the final supplementary rules would not impede facilitating cooperative conservation; would take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources; would properly accommodate local participation in the Federal decision-making process; and would provide that the programs, projects and activities are consistent with protecting public health and safety.

Paperwork Reduction Act

These final supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

Author

The principal author of these final supplementary rules is Kristi Murphy, Outdoor Recreation Planner, BLM, Gunnison Field Office.

IV. Final Supplementary Rules

For the reasons stated in the Preamble, and under the authority of 43 U.S.C. 315a, 1733(a), and 1740, and 43 CFR 8365.1–6, the State Director establishes supplementary rules for public lands within the Gunnison Field Office, Colorado, to read as follows:

Supplementary Rules for the Gunnison Basin Travel Management Plan

Definitions

Camping means erecting a tent or a shelter of natural or synthetic materials; preparing a sleeping bag or other bedding material for use; or parking a motor vehicle, motor home, or trailer for the purpose or apparent purpose of overnight occupancy.

Designated travel routes means roads and trails open to specified modes of travel and identified on a map of designated roads and trails that is maintained and available for public inspection at the BLM Gunnison Field Office, Colorado. Designated roads and

trails are open to public use in accordance with such limits and restrictions as are, or may be, specified in the resource management plan (RMP) or TMP, or in future decisions implementing the RMP. This definition excludes any road or trail with BLM-authorized restrictions that prevent use of the road or trail. Restrictions may include signs or physical barriers such as gates, fences, posts, branches, or rocks.

Existing travel routes means immediately-recognizable motor vehicle travel routes or two-track trails that are not identified as closed to motorized vehicle use by a BLM sign or map and are recognized by the BLM as existing on the ground as of January 12, 2001.

Public land means any land or interest in land owned by the United States and administered by the Secretary of the Interior through the BLM without regard to how the United States acquired ownership.

Mechanized vehicle means a human-powered mechanical device, such as a bicycle, not powered by a motor.

Motorized vehicle means a vehicle that is propelled by a motor or engine, such as a car, truck, off-highway vehicle, motorcycle, or snowmobile.

Prohibited Acts

1. Except as provided by Rule 2 below, you must not operate or possess a motorized or mechanized vehicle in an area designated as closed to such use by a BLM sign or map.

2. You must not operate or possess a mechanized or motorized vehicle except in areas designated or routes identified for such use by a BLM sign or map, unless:

- You are using a mechanized game cart for the purpose of retrieving a large game animal with a valid carcass tag outside of Congressionally-designated wilderness areas or wilderness study areas; or
- You are using a motorized vehicle for the purpose of parking or camping within 30 feet of the edge of a designated travel route or on existing travel routes within 300 feet of a designated travel route.

3. You must not operate or possess a motorized vehicle from March 15 to May 15 in specific areas of identified priority sage-grouse habitat as designated by a BLM sign or map.

Exceptions

These supplementary rules do not apply to emergency, law enforcement, and Federal or other government vehicles while being used for official or other emergency purposes, or to any other vehicle use that is expressly authorized or otherwise officially approved by the BLM.

Penalties

Under Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and 43 CFR 8360.0–7, any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Ruth Welch,

BLM Colorado State Director.

[FR Doc. 2015–01220 Filed 1–22–15; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2015–0001]

Notice of Availability Environmental Assessment for Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf Offshore North Carolina; MMAA104000

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of Availability of an Environmental Assessment.

SUMMARY: BOEM is announcing the availability of an Environmental Assessment (EA) for commercial wind lease issuance, site characterization activities (geological, geotechnical/archeological and biological surveys) and site assessment activities (including the installation and operation of a meteorological tower and/or buoys) on the Atlantic Outer Continental Shelf offshore North Carolina. The EA considers the potential impacts of the proposed action and analyzes reasonable alternatives to the proposed action. This Notice of Availability (NOA) also serves to announce the beginning of the public comment period on the EA. The EA and associated information are available on BOEM's Web site at *http://www.boem.gov/State-Activities-North-Carolina/.*

Authority: This NOA for an EA is in compliance with the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4231 *et seq.*), and is published pursuant to 43 CFR 46.305.

DATES: Comments should be submitted no later than February 23, 2015. BOEM will conduct public information meetings to explain the proposed activities analyzed in the EA and provide additional opportunity for public comment on the EA. The meetings will be held on the following dates:

- Monday, February 9, 2015, in the Northern Outer Banks, NC
- Wednesday, February 11, 2015, in Wilmington, NC
- Thursday, February 12, 2015, in Carolina Shores or Sunset Beach, NC

Additional information on specific times and venues will be posted online at: *http://www.boem.gov/State-Activities-North-Carolina/.*

FOR FURTHER INFORMATION CONTACT: Michelle Morin, BOEM Office of Renewable Energy Programs, 381 Elden Street, HM 1328, Herndon, Virginia 20170–4817, (703) 787–1340 or *michelle.morin@boem.gov.*

SUPPLEMENTARY INFORMATION: Federal, state, tribal, and local governments and/or agencies and the public may submit written comments on this EA through the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov.* In the field entitled ''Enter Keyword or ID,'' enter BOEM–2015–0001, and then click ''search.'' Follow the instructions to submit public comments and view supporting and related materials available for this notice;

2. In written form, delivered by hand or by mail, enclosed in an envelope labeled ''Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf Offshore North Carolina Environmental Assessment'' and addressed to Program Manager, Office of Renewable Energy, Bureau of Ocean Energy Management, 381 Elden Street, HM 1328, Herndon, Virginia 20170– 4817.

Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 31, 2014.

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2015–01101 Filed 1–22–15; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–516–519 and 521 and 731–TA–1252–1255 and 1257 (Final)]

Certain Steel Nails From Korea, Malaysia, Oman, Taiwan, and Vietnam; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–516–519 and 521 and 731–TA–1252–1255 and 1257 (Final) under sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from Korea, Malaysia, Oman, Taiwan, and Vietnam of certain steel nails, provided for in subheading 7317.00.55, 7317.00.65 and 7317.00.75 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* Monday, December 29, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187, *fred.ruggles@usitc.gov*), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Vietnam of certain steel nails, and that such products from Korea, Malaysia, Oman, and Vietnam are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on May 29, 2014, by Mid Continent Nail Corporation (Poplar Bluff, MO).

Although the Department of Commerce has preliminarily determined that imports of certain steel nails from Taiwan are not being and are not likely to be sold in the United States at less than fair value and that imports of certain steel nails from Korea, Malaysia, Oman and Taiwan are not being subsidized, for purposes of efficiency the Commission hereby waives rule 207.21(b)[2] so that the final phase of these investigations may proceed concurrently in the event that Commerce makes final affirmative determinations with respect to such imports.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on Wednesday, April 29, 2015, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Thursday, May 14, 2015, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before Friday, May 8, 2015. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on Tuesday, May 12, 2015, at the

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''certain steel nails having a nominal shaft length not exceeding 12 inches. Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Certain steel nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Certain steel nails may be sold in bulk, or they may be collated in any manner using any material. If packaged in combination with one or more non-subject articles, certain steel nails remain subject merchandise if the total number of nails of all types, in aggregate regardless of size, is equal to or greater than 25.''

[2] Section 207.21(b) of the Commission's rules provides that, where the Department of Commerce has issued a negative preliminary determination, the Commission will publish a Final Phase Notice of Scheduling upon receipt of an affirmative final determination from Commerce.

U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is Wednesday, May 6, 2015. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is Thursday, May 21, 2015. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before Thursday, May 21, 2015. On Wednesday, June 10, 2015, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before Friday, June 12, 2015, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: January 20, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–01138 Filed 1–22–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1131–1132, and 1134 (Review)]

Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, China, and the United Arab Emirates

Determination

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty orders on polyethylene terephthalate film, sheet, and strip (''PET film'') from China and the United Arab Emirates would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The Commission further determines that revocation of the antidumping duty order on PET film from Brazil would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted these reviews on October 1, 2013 (78 FR 60311) and determined on January 23, 2014 that it would conduct full reviews (79 FR 9276, February 18, 2014). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on July 25, 2014 (79 FR 43509). The hearing was held in Washington, DC, on November 18, 2014, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission completed and filed its determination in these reviews on January 16, 2015. The views of the Commission are contained in USITC Publication 4512 (January 2015), entitled *Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, and the United Arab Emirates: Investigation Nos. 731–TA–1131–1132, and 1134 (Review).*

By order of the Commission.

Issued: January 16, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–01096 Filed 1–22–15; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Vice Chairman Dean A. Pinkert determines that revocation of the antidumping duty order on PET film from Brazil would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

DEPARTMENT OF JUSTICE

Community Oriented Policing Services Public Meetings With Members of the Research Community, Subject-Matter Experts and the Public To Discuss Topics Relating to Policing; Correction

AGENCY: Community Oriented Policing Services, Justice.

ACTION: Notice; correction.

SUMMARY: The U.S. Department of Justice published a document in the **Federal Register** of January 15, 2015, concerning a public meeting notice to discuss topics relating to policing. The document contained times and topics that require updating.

FOR FURTHER INFORMATION CONTACT: Ronald L. Davis, 202–514–4229 or *PolicingTaskForce@usdoj.gov.*

Correction

In the **Federal Register** of January 15, 2015, in FR Doc. 2015–00546, on page 2122–2123, in the first column, correct the **SUMMARY** and **DATES** caption to read:

SUMMARY: On December 18, 2014, President Barack Obama signed Executive Order 13684 titled ''Establishment of the President's Task Force on 21st Century Policing'' establishing the President's Task Force on 21st Century Policing (''Task Force''). The Task Force seeks to identify best practices and make recommendations to the President on how policing practices can promote effective crime reduction while building public trust and examine, among other issues, how to foster strong, collaborative relationships between local law enforcement and the

communities they protect. The Task Force will be holding a public meeting to address the topics of Policy & Oversight and Technology & Social Media. The meeting agenda is as follows:

Call to Order
Invited witness testimony on Policy & Oversight (January 30)
Invited witness testimony on Technology & Social Media (January 31)
Break
Discussion

DATES: The meeting dates are:

1. January 30, 2015 10:00 a.m. to 6:00 p.m. Eastern Standard Time, Cincinnati, OH.
2. January 31, 2015 9:00 a.m. to 5:00 p.m. Eastern Standard Time, Cincinnati, OH.

Dated: January 15, 2015.

Ronald L. Davis,

Director.

[FR Doc. 2015–01102 Filed 1–22–15; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

[CPCLO Order No. 001–2015]

Privacy Act of 1974; Systems of Records

AGENCY: Office of Legal Counsel, Department of Justice.

ACTION: Notice of termination of two systems of records.

SUMMARY: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the United States Department of Justice, Office of Legal Counsel, is terminating the systems of records entitled ''Office of Legal Counsel Attorney Assignment Reports, JUSTICE/OLC–001'' and ''Office of Legal Counsel Central File, JUSTICE/OLC–003.'' The Department is eliminating the Attorney Assignment Reports system because the reports no longer exist and have been destroyed. The Department is eliminating the Central File system because the 5 x 7 card index no longer exists and the records maintained in the Central File are not retrieved by the name of individuals or by other identifying information assigned to individuals.

Accordingly, the Privacy Act system of records notices last published in the **Federal Register** on September 4, 1985, 50 FR 35878, 35879, are removed from the Department's compilation of Privacy Act systems.

Dated: January 8, 2015.

Erika Brown Lee,

Chief Privacy and Civil Liberties Officer.

[FR Doc. 2015–01211 Filed 1–22–15; 8:45 am]

BILLING CODE 4410–23–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Jose Raul S. Villavicencio, M.D.; Decision and Order

On June 24, 2013, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Jose Raul S. Villavicencio, M.D. (hereinafter, Registrant), of Parkersburg, West Virginia. GX 1. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration and denial of any applications for renewal or modification of the registration, and any applications for any other DEA registration, on the ground that his continued ''registration would be inconsistent with the public interest.'' *Id.* at 1 (citing 21 U.S.C. 823(f)) and 824(a)(4)).

The Show Cause Order alleged that Registrant is registered as a practitioner in Schedules II through V, pursuant to DEA registration number BV3249643, at the location of 1909 Dudley Avenue, Parkersburg, West Virginia, and that his registration does not expire until May 31, 2016. *Id.* The Show Cause Order alleged that Registrant had previously been registered at 1761 High Street, Columbus, Ohio, and that on September 27, 2012, the Agency had approved his request for a change from his previous registered address. *Id.* The Show Cause Order also alleged that Registrant's DEA registration authorizes him to dispense schedule III drugs to patients for maintenance or detoxification treatment, and that since July 12, 2007, Registrant has been authorized to treat up to one hundred patients, pursuant to 21 U.S.C. 823(g)(2)(A) and (2)(b)(iii). *Id.*

The Show Cause Order then alleged that on September 12, 2012, the State Medical Board of Ohio permanently revoked Registrant's medical license following a hearing. *Id.* The Show Cause Order alleged that the Ohio Board's Order was based on his failure to comply with applicable state law pertaining to the prescribing of schedule II through IV controlled substances for chronic pain, and that upon its review of sixteen (16) patient files, the Board found that he '''failed to maintain minimal standards applicable to the administration or selection of drugs''' for fourteen (14) of the patients, and that his ''care of all [sixteen (16)] patients was 'a departure from, or the failure to conform to, minimal standards of care of similar practitioners,' in violation'' of Ohio Revised Code Sections 4731.22(B)(2) and 4731.22(B)(6). *Id.* at 1–2. The Show Cause Order then alleged that the Ohio Board's findings with respect to the sixteen patients establish that Registrant prescribed controlled substances without a legitimate medical purpose and outside of the usual course of professional practice in violation of 21 CFR 1306.04(a). *Id.* at 2.

Next, the Show Cause Order alleged that a review of data obtained from the Ohio Automated Rx Reporting System (OARRS), the state database to which all Ohio pharmacies are required to report their dispensings of controlled substances, showed that on at least five separate occasions between September 1, 2010 and March 1, 2012, Registrant was treating over 100 patients with Suboxone or Subutex prescriptions at a time. *Id.* The Show Cause Order thus alleged that Registrant violated 21 U.S.C. 823(g)(2)(B)(iii) and 21 CFR 1301.28(f). *Id.*

The Show Cause Order further alleged that on March 9, 2013, DEA served an administrative inspection warrant at Registrant's registered location seeking to inspect all of his controlled substance records pertaining to his prescribing of Subutex and Suboxone for maintenance or detoxification treatment. *Id.* The Show Cause Order alleged that Investigators found that Registrant committed numerous violations of two DEA regulations, 21 CFR 1304.03(c) and 1306.05(a), including that: (1) On 116 occasions, he ''failed to record dosage units prescribed''; (2) on five occasions, he ''failed to record the date on which the prescriptions were signed''; (3) on three occasions, he ''failed to record the drug name''; and (4) on sixteen occasions, he ''failed to record any prescription information.'' *Id.* (citing 21 CFR 1304.03(c) and 1306.05(a)). The Order also alleged that Registrant issued eleven Subutex or Suboxone prescriptions to patients from a location at which he was not registered. *Id.* (citing 21 U.S.C. 822(e)). *Id.* at 2.

Finally, the Show Cause Order also alleged that Registrant had not been candid in providing material information in violation of 21 U.S.C. 823(f)(5). Specifically, the Order alleged that: (1) The Ohio Board found that he ''provided questionable, self-serving testimony during the hearing'' in three respects; (2) that on an application to a drug distributor, he had falsely stated that his medical license or registration had never been subject to ''sanction or disciplinary action''; (3) and that during an inspection by an Investigator for the West Virginia Board of Medicine, Registrant had stated that he had not ordered any drugs for dispensing when he had done so two days earlier.

Finally, the Show Cause Order notified Registrant of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for doing either, and the consequence for failing to do either. *Id.* at 3–4 (citing 21 CFR 1301.43).

On July 8, 2013, a Diversion Investigator (DI) served the Show Cause Order on Registrant by electronic mail to the email address he had provided to the Agency on his registration application. GX 4, at 1 (Declaration of Diversion Investigator). The DI received an electronic response stating that the email had been delivered on the same date. *Id.* Also, the DI faxed a copy of the Order to Show Cause to the facsimile number provided by Registrant on his registration application. *Id.* The DI then called the telephone number listed on Registrant's application and confirmed that Registrant had received the Order. *Id.* at 1–2. The DI also informed Registrant that a hearing request form had been included in both transmissions and that he had thirty days in which to request a hearing. *Id.* at 2. According to the DI, ''Registrant responded that he understood.'' *Id.*

Since the date of service of the Show Cause Order, more than thirty days have now passed and neither Registrant, nor anyone purporting to represent him, has requested a hearing or submitted a written statement in lieu of a hearing. I therefore find that Registrant has waived his right to a hearing or to submit a written statement in lieu of hearing, and issue this Decision and Final Order based on relevant evidence contained in the record submitted by the Government. 21 CFR 1301.43(d) & (e). I make the following findings of fact.

Findings

Registrant is registered as a practitioner in Schedules II through V pursuant to DEA registration number BV3249643, at the registered address of 1909 Dudley Avenue, Parkersburg, West Virginia. GX 2. Registrant is also authorized to dispense Schedule III drugs, as a DATA-waived practitioner, to up to 100 patients for maintenance or detoxification treatment pursuant to 21 U.S.C. 823(g)(2)(A) and (2)(b)(iii). *Id.* Registrant's previous registered address was 1761 High Street, Columbus, Ohio. *Id.* at 3.

However, by letter dated September 26, 2012, Registrant requested that his registered location be changed from his Ohio office to a location at 1900 Dudley Ave., Parkersburg, West Virginia. GX 7. In the letter, Registrant explained that his West Virginia medical license was active and that ''I lost my Ohio license recently over alleged improper prescribing in 2005.'' *Id.* Nonetheless, the following day, Registrant's request was approved. GX 2, at 3. On May 30, 2013, Registrant submitted a timely renewal application; his registration is not due to expire until May 31, 2016. GX 2, at 1.

As noted above, Registrant previously held an Ohio Medical License. However, on April 13, 2011, the Ohio Board notified Registrant that it was proposing to take action against his license. GX 5, at 1. On May 10, 2011, Registrant requested a hearing, and on January 17–18 and 23–27, 2012, a state Hearing Examiner conducted a hearing at which both the Board and Registrant were represented by counsel.

Following the hearing, the Hearing Examiner issued a 164-page Report and Recommendation. GX 5. Therein, the Hearing Examiner found that between 2005 and 2008, Registrant ''provided care and treatment for'' sixteen patients and that he had ''inappropriately treated and/or failed to appropriately treat and/or failed to appropriately document his treatment of these patients.'' *Id.* at 142. With respect to these patients, the Hearing Examiner further found that Registrant:

(1) ''repeatedly and/or continually treated patients by excessively and/or inappropriately prescribing medications'' and ''continued to prescribe controlled substances without appropriately pursuing or documenting the pursuit of alternative non-narcotic therapies'';

(2) ''failed to record in the patients' medical records the reason(s) he prescribed medication and/or the need . . . for prescribing multiple medications'';

(3) ''repeatedly and/or continually treated patients without performing and/or documenting appropriate physical examinations or evaluations, and/or without utilizing and/or documenting appropriate diagnostic testing or other methods of evaluating the patients' health conditions, and/or without devising and/or documenting treatment plans, and/or without periodically reassessing or documenting the reassessment of the effectiveness of treatment for illnesses'';

(4) ''failed to adequately and/or appropriately diagnose and/or document an adequate or appropriate diagnosis of the patients' medical conditions'';

(5) ''failed to document in the patient record adequate findings to support his diagnoses'';

(6) ''repeatedly and/or continually treated patients without making appropriate and/or timely referrals to specialists''; and

(7) ''failed to keep and maintain adequate records reflecting his care and treatment of the patients[,]'' because ''[t]he entries in the medical records frequently appeared verbatim from one office visit to the next and from one patient to another, with few or no changes.''

Id. The Hearing Examiner then set forth specific examples of each finding with respect to the sixteen patients, including the testimony and opinion of the Board's expert witness with regard to each of the patients. *Id.* at 143–160.

The Hearing Examiner thus concluded, *inter alia,* that Registrant's acts, conduct and/or omissions constituted: (1) The ''failure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease,'' as set forth in Ohio Rev. Code 4731.22(B)(2); and (2) a ''departure from or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,'' as set forth in Ohio Rev. Code 4731.22(B)(6). GX 5, at 160–161.

The Hearing Examiner further concluded that Registrant ''provided questionable, self-serving testimony during the hearing'' and specifically found that ''he provided conflicting testimony'' as to whether he had terminated one patient from his practice. *Id.* at 163. She also found ''disingenuous'' his ''attempt to explain away his notation that [another patient] was 'caught selling cocaine.' '' *Id.* While the Hearing Examiner noted that Registrant had presented some ''mitigating evidence,'' she concluded that ''[t]he evidence overwhelmingly establishes that [his] treatment of these patients place[d] them in serious danger.'' *Id.* at 163–64. She therefore recommended that Registrant's Ohio medical license be permanently revoked. *Id.* at 164.

On September 12, 2012, the Ohio Board adopted the Hearing Examiner's Report and Recommendation and ordered that Registrant's medical license be permanently revoked. GX 6, at 1. The Board further ordered that the revocation be effective immediately upon the mailing of its Order. *Id.* Registrant appealed the decision to the Ohio Court of Common Pleas, which affirmed the Board's revocation order on July 29, 2013. GX 18, at 21.

As found above, on September 26, 2012, Registrant wrote to a Diversion Investigator in the Charleston, West Virginia office requesting that he ''expedite the transfer'' of his DEA registration from Ohio to West Virginia. GX 7. The next day, Registrant's request was approved. GX 2, at 3.

On March 9, 2013, a DEA DI (along with other DEA personnel), accompanied by a West Virginia

Medical Board Investigator, went to Registrant's Parkersburg office where the DI served him with an Administrative Inspection Warrant. GX 8; *see also* GX 3, at 1. Pursuant to the warrant, the DI seized 149 patient files and miscellaneous photocopies of prescriptions, as well as related notes and claim forms. GX 3, at 3. Registrant told the DI that all records of the controlled substances he prescribed in the course of providing treatment for addiction since September 2012 were in the medical charts, but that his Suboxone records for the period prior to September 2012 were stored electronically on an off-site computer server. *Id.* However, when asked by the DI to access those records, Registrant was unable to do so, and as of the date of the DI's affidavit (July 14, 2014), he had not submitted any such records to the DI. *Id.*

The evidence submitted by the Government includes excerpts from 78 patient files which include Subutex and Suboxone prescriptions issued by Registrant between September 29, 2012 and March 9, 2013. *See* GXs 11–15. The evidence includes 55 patient file excerpts, which the DI stated show that for 118 prescriptions issued during this period, Registrant failed to record the quantity of the Suboxone or Subutex prescribed.[1] *See* GX 11. The evidence also includes undated visit notes for seven patients, which document that Registrant prescribed Suboxone or Subutex, *see* GX 12, as well visit notes for two patients on which Registrant failed to record the name of the drug prescribed (Suboxone or Subutex). GX 13.

The evidence also includes patient file excerpts for five individuals, along with printouts obtained from the Ohio Automated Rx Reporting System (OARRS) and the West Virginia Controlled Substance Monitoring Program (WVCSMP). *See* GX 14. This evidence shows that on twenty-nine occasions, Registrant failed to record in the patients' files any information regarding the Suboxone or Subutex prescriptions he issued. *Id.* In one instance, the OARRS printout shows that Registrant issued twelve prescriptions for Suboxone or buprenorphine to a patient between June 8, 2012 and January 12, 2013. *Id.* at 1 & 9. Yet none of the prescriptions are documented in the patient's file. *Id.* at 1, 6–9.

The Government also submitted evidence tending to show that notwithstanding that his Ohio license had been revoked and that Registrant had changed the address of his DEA registration to Parkersburg, West Virginia, he continued to issue prescriptions from his prior DEA-registered location at the South German Village Medical Center, Columbus, Ohio. GX 15. More specifically, the evidence shows that between November 28, 2012 and March 5, 2013, Registrant issued ten prescriptions for Suboxone or Subutex which he faxed from the South German Village Medical Center. *See also* GX 3, at 5. Facsimile records for two additional Suboxone prescriptions purportedly issued to one individual show that they were faxed within Ohio on February 2, 2013. *Id., see also* GX 15, at 12.

The evidence also includes a list of patients to whom Registrant prescribed buprenorphine, along with the dates of the first and last such prescription. GX 16. According to the DI, this list was compiled based on data obtained from the prescription monitoring programs of Ohio and West Virginia, and shows that ''on five specific dates,'' Registrant exceeded the 100-patient limit on the number of patients to whom he could prescribe Suboxone and Subutex as a DATA-Waived physician. GX 3, at 5–6; *see also* 21 U.S.C. 823(g)((2)(B)(iii). More specifically, the DI asserted that on September 1, 2010, Registrant ''was treating 148 buprenorphine patients.'' GX 3, at 6.[2] Consistent with the DI's findings, Registrant testified before the Ohio Medical Board that: ''[w]e also currently have 150 patients in our Suboxone program. This program has actually allowed us to return to function a fair number of nurses, businessmen, teachers, computer programmers, and homemakers.'' GX 5, at 137 (citation omitted).

As found above, an Investigator from the West Virginia Board of Medicine was also present during the execution of the Administrative Inspection Warrant at Registrant's Parkersburg office on March 9, 2013. GX 10, at 1. When the Investigator advised Registrant that she would be conducting an on-site dispensing inspection, he stated that he was not ready to dispense and that he did not have any dispensing equipment. *Id.* at 1. The Investigator's report states that Registrant had applied for a Dispensing Registration from the West Virginia Board of Medicine on February 25, 2013, and had telephoned the Board again on March 6, 2013 requesting that the registration be faxed as soon as possible. *Id.* According to the report, Registrant told the Investigator that he had not ordered any pharmaceuticals because the ''packagers Dr. Dispense and Advantage RX need a copy of my dispensing license before they will process the pharmaceuticals and provide me with the scanner, label maker, everything I need to dispense.'' *Id.* at 1–2.

The evidence also includes a copy of a customer application Registrant submitted on February 20, 2013, to Smith Medical Partners, a distributor of controlled substances. GX 9, at 5–6. On the application, Registrant wrote that his business was an ''addiction clinic'' and that it ''dispenses only schedule III drugs, Suboxone & Subutex.'' *Id.* at 5.

On the application, Registrant was also required to answer the following question: ''[h]as any sanction or disciplinary action been taken regarding any license, permit, or registration issued to the applicant, officer, owner member, partner, [or] physician . . . involving the operations or ownership of a clinic?'' *Id.* at 6. Notwithstanding that the Ohio Medical Board had revoked his medical license five months earlier, Registrant answered ''No.'' *Id.*

Registrant was approved as a customer, and on or about March 7, 2013, ordered both buprenorphine and Suboxone from Smith, which shipped the drugs by UPS to his Parkersburg office. *Id.* at 4. The drugs, however, were returned to Smith by UPS after Registrant failed to pick up them up at UPS per an arrangement he had made with it. *Id.* at 3. During a phone call with a Smith employee, Registrant told her that because his Parkersburg office was open only '' 'on Saturdays . . . he need[ed] to pick up his product from a UPS location.' '' *Id.*

Finally, the evidence includes a copy of a Final Order issued by the West Virginia Board of Medicine and a copy of the Hearing Examiner's Proposed Findings of Fact, Conclusions of Law, and Recommendation. GX 17. These documents establish that on or about June 8, 2013, the West Virginia Medical Board issued a Complaint and Notice of Hearing to Registrant, which sought to revoke his medical license, and that following a hearing, the Hearing Examiner concluded that the evidence ''clearly and convincingly established

[1] Pages 1–3 of the exhibit consist of an itemized list prepared by the DI specifying each patient (by a number assigned by the DI), the date of the prescription, the drug (Subutex or Suboxone) and the specific violation (generally that he ''did not record dosage units''). *See* GX 11. However, the list contains a patient file (#59) whose file is not included in the exhibit. According to the itemized list, Patient 59's prescription for buprenorphine on January 21, 2013 did not include a recorded dosage unit. *Id.* at 3.

[2] According to the exhibit, as of January 1, 2011, Registrant was treating 158 buprenorphine patients; as of June 1, 2011, he was treating 143 buprenorphine patients; as of January 1, 2012, he was treating 118 buprenorphine patients; and as of March 1, 2012, he was treating 110 such patients. GX 16, at 7.

that [Registrant]'s practice of medicine in West Virginia renders him unqualified for continued licensure based upon his violations'' of state law and that his license should be revoked. *Id.* at 50. The evidence further shows that on November 18, 2013, the Board adopted the Hearing Examiner's report (albeit with one minor modification to a single finding of fact) and concluded that Registrant ''is unfit to practice medicine and surgery in the state of West Virginia.'' *Id.* at 2. The Board thus revoked Registrant's medical license effective on entry of its order. *Id.*

Discussion

The Public Interest Analysis

Section 304(a) of the Controlled Substances Act (CSA) provides that a registration to ''dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section.'' 21 U.S.C. 824(a)(4). With respect to a practitioner, the Act requires the consideration of the following factors in making the public interest determination:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing . . . controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id. § 823(f).

''These factors are . . . considered in the disjunctive.'' *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). I ''may rely on any one or a combination of factors, and may give each factor the weight [I] deem[] appropriate in determining whether a registration should be revoked.'' *Id.; see also Volkman* v. *DEA,* 567 F.3d 215, 222 (6th Cir. 2009). While I must consider each factor, I am ''not required to make findings as to all of the factors.'' *Volkman,* 567 F.3d at 222; *see also Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005); *Morall* v. *DEA,* 412 F.3d 165, 173–74 (D.C. Cir. 2005).

However, even where a Registrant fails to request a hearing on the allegations, the Government has the burden of proving, by substantial evidence, that the requirements for revocation or suspension pursuant to 21 U.S.C. 824(a) are met. 21 CFR 1301.44(e).[3] Having considered the Government's evidence, I find that the Government has established that Registrant ''has committed such acts'' as to render his registration ''inconsistent with the public interest.''[4] 21 U.S.C. 824(a)(4).

Factors II and IV—The Applicant's Experience in Dispensing Controlled Substances and Compliance With Applicable Laws Related to Controlled Substances

Relevant to these factors, the Government has alleged that Registrant violated federal law by: (1) Issuing controlled substance prescriptions which lacked a legitimate medical purpose, (2) exceeding the 100-patient limit on his authority to treat narcotic dependent patients under the Drug Addiction Treatment Act of 2000, and (3) failing to maintain required records when he prescribed Subutex and Suboxone for maintenance and detoxification purposes. GX 1, at 1–2. As discussed below, each of these allegations is supported by substantial evidence.

The Violations of 21 CFR 1306.04(a)

To effectuate the dual goals of conquering drug abuse and controlling both the legitimate and illegitimate traffic in controlled substances, ''Congress devised a closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA.'' *Gonzales* v. *Raich,* 545 U.S. 1, 13 (2005). Consistent with the maintenance of the closed regulatory system, a controlled substance may only be dispensed upon a lawful prescription issued by a practitioner. *Carlos Gonzalez, M.D.,* 76 FR 63118, 63141 (2011).

Fundamental to the CSA's scheme is the Agency's longstanding regulation which states that ''[a] prescription for a controlled substance [is not] effective [unless it is] issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). This regulation further provides that ''an order purporting to be a prescription issued not in the usual course of professional treatment . . . is not a prescription within the meaning and intent of [21 U.S.C. 829] and . . . the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.'' *Id.*

As the Supreme Court has explained, ''the prescription requirement . . . ensures patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, [it] also bars doctors from peddling to patients who crave the drugs for those prohibited uses.'' *Gonzales* v. *Oregon,* 546 U.S. 243, 274 (2006) (citing *United States* v. *Moore,* 423 U.S. 122, 135, 143 (1975)); *United States* v. *Alerre,* 430 F.3d 681, 691 (4th Cir. 2005), *cert. denied,* 574 U.S. 1113 (2006) (the prescription requirement stands as a proscription against doctors acting not ''as a healer[,] but as a seller of wares.'').

Under the CSA, it is fundamental that a practitioner must establish and maintain a legitimate doctor-patient relationship in order to act ''in the usual course of . . . professional practice'' and to issue a prescription for a ''legitimate medical purpose.'' *Paul H. Volkman,* 73 FR 30629, 30642 (2008), *pet. for rev. denied,* 567 F.3d 215, 223–24 (6th Cir. 2009); *see also Moore,* 423 U.S. at 142–43 (noting that evidence established that physician exceeded the bounds of professional practice, when ''he gave inadequate physical examinations or none at all,'' ''ignored the results of the tests he did make,'' and ''took no precautions against . . . misuse and diversion''). The CSA, however, generally looks to state law to determine whether a doctor and patient have established a legitimate doctor-patient relationship. *Volkman,* 73 FR at 30642.

As support for this allegation, the Government submitted the decisions and orders of the Ohio and West Virginia medical boards.[5] Under the

[3] Where the Government seeks to deny an application for a practitioner's registration, it also has ''the burden of proving that the requirements for such registration . . . are not satisfied.'' 21 CFR 1301.44(d).

[4] Regarding factor three, there is no evidence that Respondent has been convicted of an offense related to the manufacture, distribution or dispensing of controlled substances. However, as there are a number of reasons why a person may never be convicted of an offense falling under this factor, let alone be prosecuted for one, ''the absence of such a conviction is of considerably less consequence in the public interest inquiry'' and thus, it is not dispositive. *David A. Ruben,* 78 FR 38363, 38379 n. 35 (2013) (citing *Dewey C. MacKay,* 75 FR 49956, 49973 (2010), *pet. for rev. denied MacKay* v. *DEA,* 664 F.3d 808 (10th Cir. 2011)).

As for factor one, while there is no recommendation in the record from the West Virginia Medical Board, it is noted that the State has revoked his medical license. The consequence of the Board's action is discussed more fully later in this Decision.

[5] Noting that the West Virginia Board's Order was not issued until after the OTSC was issued, the Government asks that I take official notice of its various factual findings related to Registrant's prescribing of Suboxone. Req. for Final Agency Action, at 16. I take official notice of the Order only

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doctrine of collateral estoppel, the Ohio Board's findings of fact and conclusions of law are entitled to preclusive effect in this proceeding if Registrant had an adequate opportunity to litigate the issues in the state proceeding. *See Thomas Neuschatz,* 78 FR 76322, 76325 (2013) (citing *Robert L. Dougherty, M.D.,* 76 FR 16823, 16830 (2011)); *Univ. of Tenn.* v. *Elliot,* 478 U.S. 788, 797–98 (1986) (''When an administrative agency is acting in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate, the courts have not hesitated to apply res judicata[.]'') (internal quotations and citations omitted).

Here, having reviewed the Ohio Board's decision, I conclude that Registrant had an adequate opportunity to litigate (and did litigate) the issues raised in that proceeding. Accordingly, I give preclusive effect to the Board's findings of fact and conclusions of law. *See Neuschatz,* 78 FR at 76325; *Dougherty,* 76 FR at 16830.

As found above, the Ohio Board adopted its Hearing Examiner's findings of fact that with respect to sixteen patients, Registrant:

(1) ''repeatedly and/or continually treated patients by excessively and/or inappropriately prescribing medications'' and ''continued to prescribe controlled substances without appropriately pursuing or documenting the pursuit of alternative non-narcotic therapies'';

(2) ''failed to record in the patients' medical records the reason(s) he prescribed medication and/or the need . . . for prescribing multiple medications'';

(3) ''repeatedly and/or continually treated patients without performing and/or documenting appropriate physical examinations or evaluations, and/or without utilizing and/or documenting appropriate diagnostic testing or other methods of evaluating the patients' health conditions, and/or without devising and/or documenting treatment plans, and/or without periodically reassessing or documenting the reassessment of the effectiveness of treatment for illnesses'';

(4) ''failed to adequately and/or appropriately diagnose and/or document an adequate or appropriate diagnosis of the patients' medical conditions'';

(5) ''failed to document in the patient record adequate findings to support his diagnoses'';

(6) ''repeatedly and/or continually treated patients without making appropriate and/or timely referrals to specialists''; and

(7) ''failed to keep and maintain adequate records reflecting his care and treatment of the patients[,]'' because ''[t]he entries in the medical records frequently appeared verbatim from one office visit to the next and from one patient to another, with few or no changes.''

GX 5, at 142.

The Ohio Board thus found that Registrant, in treating the sixteen patients, violated Ohio law in that he failed to ''maintain minimal standards applicable to the selection or administration of drugs, or . . . to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease.'' *Id.* at 160 (citing Ohio Rev. Code § 4731.22(B)(2)). And the Ohio Board also found that Registrant's acts, conduct and/or omissions constituted a ''departure from or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances.'' *Id.* at 161 (citing Ohio Rev. Code 4731.22(B)(6)).

It is acknowledged that the State Board did not charge, and the Board did not find, that Registrant violated the provision of the Ohio Code which most closely tracks the standard of the CSA's prescription requirement. *See* Ohio Rev. Code 4731.22(b)(3) (authorizing sanction of medical license holder for ''[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and therapeutic purposes''). *Cf. Kenneth Harold Bull,* 78 FR 62666, 62674 n.9 (2013) (dictum). However, while the State Board's legal conclusion sounds in malpractice, I nonetheless conclude that the Board's factual findings support the conclusion that Respondent's prescribing went well ''beyond the bounds of any legitimate medical practice, including that which would constitute civil negligence'' and thus establish that he acted outside of the usual course of professional practice and lacked a legitimate medical purpose in prescribing controlled substances to the sixteen patients. *Laurence T. McKinney,* 73 FR 43260, 43266 (2008) (quoting *United States* v. *McIver,* 470 F.3d 550, 559 (4th Cir. 2006)); *see also United States* v. *Feingold,* 454 F.3d 1001, 1010 (9th Cir. 2006) (''[T]he *Moore* Court based its decision not merely on the fact that the doctor had committed malpractice, or even intentional malpractice, but rather on the fact that his actions completely betrayed any semblance of legitimate medical treatment.'').

Numerous decision of the courts (including the Supreme Court in *Moore*) and this Agency have recognized that the prescribing of a controlled substance (and the continued prescribing of a controlled substance) under the following circumstances establishes that a physician lacked a legitimate medical purpose and acted outside of the usual course of professional practice and therefore violated the CSA:

- Without performing an appropriate physical examination,
- without utilizing appropriate diagnostic testing,
- failing to devise and document a written treatment plan,
- failing to periodically reassess the effectiveness of the treatment,
- continuing to prescribe controlled substances without pursuing alternative therapies,
- repeatedly and continually prescribing without referring the patient to appropriate specialists, and
- failing to keep and maintain records which contain adequate findings to support a diagnosis and the need to prescribe one or more medications.

See, e.g.; Paul H. Volkman, 73 FR 30630 (2008), *pet. for rev. denied,* 567 F.3d. 215 (6th Cir. 2009); *see also David A. Ruben,* 78 FR 38363 (2013); *Henri Wetselaar,* 77 FR 57126 (2012); *Jack A. Danton,* 76 FR 60900 (2011); *George C. Aycock,* 74 FR 17529, 17544 (2009).

Accordingly, I hold that the Ohio Board's findings support the Government's allegation that Respondent violated 21 CFR 1306.04(a)

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to the extent it establishes that Registrant is no longer authorized to practice medicine in West Virginia, the State in which he is registered. Pursuant to 5 U.S.C. 556(e) Registrant is entitled to show to the contrary by filing a properly supported motion for reconsideration within fifteen (15) days of the date of service of this Order which shall begin on the date of mailing.

I otherwise decline to take official notice of the findings of fact and conclusions of law set forth in the West Virginia Board's Order. While it is true that the Order was not issued until after the Show Cause Order was issued, the West Virginia Board issued its complaint two weeks before the Show Cause Order was issued. Moreover, the Board issued its Final Order eight months before the Government filed its Request for Final Agency Action. Yet, at no point did the Government provide notice to Registrant that it was also alleging that his prescribing to the nine patients who were at issue in the West Virginia proceeding would also be at issue here. While it is true that even if he had notice, the doctrine of collateral estoppel would likely foreclose any challenge to those findings in this proceeding, I nonetheless conclude that he was entitled to notice that the Government also intended to rely on these additional allegations. *Cf.* Fed. R. Civ. P. r 5(a)(2) (''No service is required on a party who is in default for failing to appear. But a pleading that asserts a new claim for relief against such a party must be served on that party . . .'').

By contrast, because possessing state authority is an essential condition for maintaining a practitioner's DEA registration, and the Agency has long held that it lacks authority to continue a practitioner's registration where a practitioner no longer holds state authority to dispense controlled substances, the Agency has consistently taken official notice of state board decisions suspending or revoking a practitioner's state authority notwithstanding that the state did not take action until after the issuance of a Show Cause Order. In such cases, adequate notice is provided either by the Government's filing of a Motion for Summary Disposition (in a case where a hearing was requested) or by taking official notice and providing the applicant/registrant with the opportunity to refute the finding (when no hearing request was filed).

when he prescribed to the sixteen patients discussed in the Board's Order.

Other CSA Violations

As found above, DEA's investigation of Registrant established that he has committed numerous additional violations of the CSA related to his prescribing as a DATA-Waived practitioner. First, the evidence shows that notwithstanding that Registrant was only authorized to provide maintenance or detoxification treatment to 100 patients at a time, he was in violation of this limit on multiple dates. Indeed, in the Ohio Board proceeding, Respondent admitted that he ''currently ha[d] 150 patients in our Suboxone program.'' GX 5, at 137. Thus, Respondent violated the conditions imposed by federal law on the prescribing of Suboxone and Subutex for maintenance or detoxification treatment. *See* 21 U.S.C. 823(g)(2) (A) & (B)(iii); 21 CFR 1301.28(b)(iii).

The DI also found evidence that Registrant committed numerous violations of the recordkeeping requirement applicable to the prescribing of Suboxone and Subutex in the course of maintenance or detoxification treatment. *See* 21 U.S.C. 827(c)(1)(a) Records and Reports of Registrants); *see also* 21 CFR 1304.03(c) (requiring registered practitioners to keep records of controlled substances that are prescribed in the course of maintenance or detoxification treatment).

The DI's review of OARRS and WVCSMP records found that on twenty-nine (29) occasions, Registrant failed to record any information in his patient files for prescriptions issued for Suboxone and Subutex, in violation of 21 U.S.C. 827(a)(3) & (c)(1)(a) and 21 CFR 1304.03(a) & (c). Also, the DI's review of the patient files found that between September 9, 2012 and March 9, 2013, Registration issued 118 prescriptions for Suboxone and Subutex, without recording the quantity prescribed in the patient's file. *See* 21 U.S.C. 827(a)(3) (requiring the maintenance of a complete and accurate record of each controlled substance delivered by him); 21 CFR 1304.22(c) (requiring dispenser's records to include ''[t]he name of the substance,'' the ''finished form,'' ''the number of units or volumes of such finished form dispensed, . . . the name and address of the person to whom it was dispensed, the date of the dispensing, [and] the number of units or volume dispensed''). *Cf.* 21 CFR 1306.05(a) (''All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner.'').

In addition, the DI found that in seven instances, Registrant had issued Suboxone or Subutex prescriptions but had not documented the date of the prescription (whether in a log, on the progress note, or by making a copy of the prescription and keeping it in the patient's file), as well as that in three instances, Registrant failed to document whether he had prescribed Suboxone or Subutex.

The evidence also showed that subsequent to September 26, 2012, Registrant issued ten prescriptions for Subutex and/or Suboxone to patients, which were faxed from his office at the South German Village Medical Center in Columbus, Ohio. Notably, this was after the Ohio Board had revoked his medical license and after Registrant had changed his DEA registered address to his office in Parkersburg, West Virginia. In doing so, Registrant violated the separate registration requirement of 21 U.S.C. 822(e), which provides that ''[a] separate registration shall be required at each principal place of business or professional practice where the [registrant] distributes or dispenses controlled substances.'' *See also* 21 CFR 1301.12(a).

The evidence also shows that when Registrant applied for an account with Smith Medical Partners so that he could purchase controlled substances, he provided a false answer to the application's question which asked whether ''any sanction or disciplinary action [had] been taken regarding any license, permit, or registration issued to'' him. Thereafter, Registrant was approved as a customer and ordered both buprenorphine and Suboxone from Smith. However, the drugs were returned to Smith after Registrant failed to pick them up.

Pursuant to 21 U.S.C. 843(a)(3), it is ''unlawful for any person knowingly or intentionally . . . to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deceptions or subterfuge.'' Here, while Registrant never actually obtained possession of the drugs, the CSA also provides that ''[a]ny person who attempts . . . to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt.'' 21 U.S.C. 846.

At the time Registrant submitted his application to Smith, he clearly knew that the Ohio Board had revoked his medical license. *See* GX 7 (Registrant's letter of Sept. 26, 2012 to DI stating that ''I lost my Ohio license recently over alleged improper prescribing in 2005''). And by falsifying the application, and then proceeding to order the controlled substances, Registrant clearly attempted to obtain the drugs by ''misrepresentation, fraud, . . . deception, or subterfuge.'' Given that the question was clearly part of Smith's process for screening its potential new customers, I further conclude that the falsification was capable of influencing Smith's decision to approve him as a customer and was therefore material. I therefore find that Registrant violated federal law when he attempted to procure controlled substances by falsifying his application to become a customer of Smith Medical Partners.

As the forgoing demonstrates, Registrant's experience in dispensing controlled substances is characterized by his violations of multiple provisions of federal law. These include: 1) his violations of the prescription requirement, *see* 21 CFR 1306.04(a); 2) his violations of the 100-patient limit on his authority to prescribe as a DATA-Waived practitioner, *see* 21 U.S.C. 823(g)(2)(B)(iii); 3) his violations of the separate registration requirement, *see* 21 U.S.C. 822(e); 4) his numerous violations of recordkeeping requirements applicable to the prescribing Suboxone and Subutex for the purpose of providing maintenance and detoxification treatment, *see* 21 U.S.C. 827(a)(3) & 21 CFR 1304.22(c); and 5) his attempt to procure controlled substances by misrepresentation and fraud. 21 U.S.C. 843(a)(3) & 846.

I therefore conclude that the Government's evidence with respect to factors two and four establishes that he has committed such acts as would render his registration ''inconsistent with the public interest.'' *Id.* § 824(a)(4). I further conclude that the proven misconduct is egregious and supports the revocation of Registrant's registration.[6]

[6] The Government also alleged that Registrant has not ''been candid in providing material information in violation of 21 U.S.C. 823(f)(5) based on: 1) the application he submitted to Smith Medical Partners, 2) testimony he gave on several issues before the Ohio Board, and 3) a false statement he made to the West Virginia Board Investigator. GX 1, at 2–3. Putting aside that section 823(f)(5) is simply a public interest factor and creates no substantive rule of conduct, I have concluded that Registrant's submission of his false customer application to Smith Medical Partners is properly considered under factor four.

As also found above, the Ohio Board's Hearing Examiner did find Registrant's testimony on several issues to be disingenuous. This provides some additional support under factor five (not that it is

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Loss of State Authority Grounds

The Government also seeks the revocation of Registrant's registration on the separate and independent ground that he no longer holds a valid medical license in West Virginia, and thus lacks authority to dispense controlled substances in the State in which he is registered with DEA. Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to revoke or suspend a registration ''upon a finding that the registrant . . . has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the . . . distribution or dispensing of controlled substances.'' With respect to a practitioner, ''DEA has repeatedly held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration.'' *James L. Hooper,* 76 FR 71371, 71371 (2011) (citing *Leonard F. Faymore,* 48 FR 32886, 32887 (1983)), *pet. for rev. denied, Hooper* v. *Holder,* 481 Fed. Appx. 826, 828 (4th Cir. June 6, 2012) (unpublished).

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean [ ] a physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . *if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.''* 21 U.S.C. 823(f) (emphasis added).

Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction if the practitioner is no longer authorized to dispense controlled substances under the laws of the State in which he practices medicine. *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988).

Here, I have taken official notice of the West Virginia Medical Board's Final Order which revoked Registrant's medical license effective with the entry of the Order. Accordingly, I conclude that Registrant is without authority under West Virginia law to handle controlled substances in the State in which he holds his registration. Because Registrant no longer meets the CSA's requirement that he be currently authorized to dispense controlled substances in the State in which he holds his registration, I will order that his registration be revoked for this reason as well. *See Craig Bammer,* 73 FR 34327, 34329 (2008); *Richard Carino,* M.D., 72 FR 71955, 71956 (2007) (citing cases).

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a)(3) & (4), as well as 28 CFR 0.100(b) and 0.104, I order that DEA Certificate of Registration BV3249643, issued to Jose Raul S. Villavicencio, M.D., be, and it hereby is, revoked. I further order that any application of Jose Raul S. Villavicencio, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effectively immediately.[7]

Dated: December 30, 2014.

Thomas M. Harrigan,

Deputy Administrator.

[FR Doc. 2015–01221 Filed 1–22–15; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 13–37]

Samuel Mintlow, M.D.; Decision and Order

On July 2, 2013, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Samuel Mintlow, M.D. (hereinafter, Respondent), of Conyers, Georgia. ALJ Ex. 1. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration BM0288983, which authorizes him to dispense controlled substances in schedules II through V, and the denial of any pending applications to renew or modify his registration, on the ground that his ''registration is inconsistent with the public interest.'' *Id.* (citing 21 U.S.C. 823(f) and 824(a)(4)).

The Show Cause Order specifically alleged that around January 2011, one Charles Thomas Laing, a resident of Tennessee, and one Mark Del Percio, a resident of South Florida, neither of whom is a licensed medical professional, decided to open a pain management clinic which was named Liberty Wellness Center (hereinafter, Liberty or LWC) in Norcross, Georgia. *Id.* at 2. The Order alleged that in January 2011, Respondent was hired to treat Liberty's patients and to distribute controlled substances, and that through April 2012, Liberty ''unlawfully distributed controlled substances through prescriptions issued under [Respondent's] registration for no legitimate medical purpose'' including highly abused drugs such as oxycodone, hydrocodone, alprazolam, and carisoprodol. *Id.*

The Order further alleged that the majority of Liberty's patients (687) were from Tennessee (while 54 were from Georgia), and that 50 of the Tennessee patients lived in the same town (Rogersville) as Charles Laing (with sixteen living on the same road), and that this town was located 254 miles from Liberty. *Id.* The Show Cause Order then alleged that between January and June 2011, ''Laing recruited approximately 20–25 [persons] to travel to [Liberty] and obtain'' prescriptions for oxycodone 30mg from Respondent, and that they provided the oxycodone to Laing who then sold the drugs. *Id.* The Order alleged that Laing subsequently pled guilty in federal district court to conspiracy to distribute and possess with the intent to distribute oxycodone, in violation of 21 U.S.C. 846 and 841(b)(1)(c). *Id.* at 3.

Next, the Show Cause Order alleged that ''between February 2011 and April 2012, [Respondent] unlawfully distributed approximately 1,950 oxycodone'' 30mg tablets, ''by issuing prescriptions'' to one Terrance Q. Williams, an alleged associate of Laing, who also sponsored various other individuals from Greenville, Tennessee. *Id.* The Order alleged that Williams would pay the costs of a sponsored person's trip, including the amount charged by Liberty and by the pharmacy which filled the prescriptions, and that

needed) for the conclusion that Registrant has committed such acts as to render his registration ''inconsistent with the public interest.'' 21 U.S.C. 824(a)(4).

As for the allegation that on March 9, 2013, Registrant made a false statement to a West Virginia Board Investigator, the Board itself apparently did not pursue the allegation, and given the extensive evidence of Registrant's misconduct, I deem it unnecessary to address it.

[7] Based on the extensive and egregious nature of the misconduct proved by the Government, I conclude that the public interest necessitates that this Order be effectively immediately. 21 CFR 1316.67.

the latter would provide a percentage of the oxycodone to Williams, who sold the drugs to persons including Del Percio. *Id.* The Order then alleged that while Williams and the persons he sponsored complained of pain, Respondent did little or nothing to verify their complaints and that Respondent ''repeatedly and deliberately ignored red flags that could or did indicate likely paths of diversion while prescribing controlled substances to Williams.'' *Id.* The Order also alleged that on February 8, 2013, Williams pled guilty in federal district court to one count of conspiracy to distribute and possess with the intent to distribute oxycodone, in violation of 21 U.S.C. 846 and 841(b)(1)(c). *Id.*

The Show Cause Order next alleged that ''[b]etween March 2011 and April 2012, [Respondent] unlawfully distributed 1,560 oxycodone [30mg] tablets by issuing prescriptions to Jessica R. Bernard,'' who resided in Rogersville, Tennessee and was an acquaintance of Williams and Laing. *Id.* The Show Cause Order alleged that Bernard also sponsored persons from Tennessee, and that she would ''bring groups of people'' to Liberty, ''sometimes two to three times a week to obtain prescriptions for oxycodone and other controlled substances'' from Respondent, which she would then distribute in Tennessee, and that Respondent ''repeatedly and deliberately ignored red flags that could or did indicate likely paths of diversion while prescribing controlled substances to Bernard.'' *Id.* The Show Cause Order then alleged that ''on August 28, 2012,'' Bernard pled guilty in federal district court to one count of conspiracy to distribute and possess with the intent to distribute oxycodone, in violation of 21 U.S.C. 846 and 841(b)(1)(c). *Id.* at 3–4.

Finally, the Show Cause Order alleged that between August 2 and December 1, 2011, DEA conducted seven undercover visits, during which Respondent issued controlled substance prescriptions to three undercover officers (UC), ''for other than a legitimate medical purpose or outside the usual course of professional practice.'' *Id.* at 4 (citing 21 CFR 1306.04(a); Ga. Code Ann. 16–13–41(f)). The Show Cause Order also alleged that Respondent ''violated Georgia medical practice standards'' by failing ''to maintain appropriate patient records that supported the prescribing of controlled substances and'' by failing ''to conduct an appropriate physical examination or maintain substantial supporting documentation to support large doses of narcotic medication.'' *Id.* (citing Ga. Comp. R. & Regs. 360–3-.02(7) and 360–3-.02(14)). *Id.*[1] Finally, with respect to UC3, the Show Cause Order alleged that Respondent further violated Agency regulations by prescribing oxycodone to him knowing that he was dependent on narcotics. *Id.* at 6 (citing 21 CFR 1306.04(c) and 1306.07).

On August 5, 2013, Respondent requested an extension of time to respond to the Order to Show Cause. ALJ Ex. 2. Therein, Respondent stated that he received the Order to Show Cause on July 23, 2013. *Id.* The case was then placed on the docket of the Office of Administrative Law Judges and assigned to ALJ Christopher B. McNeil. The next day, the ALJ found that Respondent's request ''should be treated as a request for a hearing,'' and issued an Order for Prehearing Statements and Setting the Matter for Hearing. ALJ Ex. 3.

Following pre-hearing procedures, the ALJ conducted an evidentiary hearing in Atlanta, Georgia on October 8–9, 2013, at which both parties called witnesses to testify and submitted various exhibits for the record. Following the hearing, both parties submitted briefs containing their proposed findings of fact, conclusions of law, and argument.

On December 18, 2013, the ALJ issued his recommended decision (hereinafter, R.D.). Therein, the ALJ found that ''the Government has established its *prima facie* case by at least a preponderance of the evidence, and [that] Respondent had failed to rebut that case through a demonstration of sufficient remediation.'' R.D. 108. The ALJ thus recommended that Respondent's registration be revoked and that any pending application be denied. *Id.*

Most significantly, the ALJ found that ''between January 2011 and April 2012 . . . Respondent issued prescriptions . . . for controlled substances, including oxycodone and Xanax to [ten patients] and to [three] undercover DEA agents . . . under conditions that were inconsistent with the usual course of professional practice for [a] physician in Georgia and that were not for a legitimate medical purpose.'' R.D. at 102 (Finding of Fact Number 4).[2] As support for his conclusion, the ALJ found that Respondent prescribed controlled substances ''based on a diagnosis of pain, without obtaining and sufficiently verifying the patient's medical history including his or her history of prescription medications,'' and ''without first conducting a physical examination sufficient to determine the necessity of opioid treatment.'' R.D. at 103. The ALJ also relied on his findings that Respondent ''fail[ed] to use medication and other modalities of treatment based on generally accepted or approved indications with proper precautions to avoid adverse physical reactions, habituation, or addiction''; that he prescribed controlled substances ''under conditions where the medical records fail to contain sufficient indicia to support diagnoses warranting narcotic pain therapy''; and that he ''prescrib[ed] controlled substances to patients who without demonstrating legitimate medical reasons travelled from out of state and from long distances.'' *Id.* The ALJ thus concluded that the evidence supported a finding that Respondent's continued registration ''is inconsistent with the public interest'' and supported the revocation of his registration.'' *Id.* at 107.

The ALJ further found that ''Respondent has failed to affirmatively acknowledge specific acts of improper prescribing . . . and failed to establish by . . . substantial evidence effective steps taken in remediation.'' *Id.* at 108. The ALJ thus concluded that ''the Government has established cause to revoke Respondent's . . . registration and to deny all pending applications,'' and recommended that I revoke Respondent's registration and deny any pending application to renew or modify his registration. *Id.*

Both parties filed exceptions to the ALJ's recommended decision. Thereafter, the record was forwarded to me for final agency action. Having considered the entire record, including the parties' exceptions, I adopt the ALJ's ultimate conclusions that the Government has met its *prima facie* burden of showing that Respondent's continued registration is inconsistent with the public interest and that Respondent has not produced sufficient evidence to rebut the Government's case. Accordingly, I will order that Respondent's registration be revoked and that any pending application be denied. I make the following findings.

Findings

Respondent's Registration Status

Respondent is a medical doctor who is apparently licensed by the Georgia Composite State Board of Medical Examiners. Tr. 330. Respondent also holds DEA Certificate of Registration

[1] The Order then set forth various factual allegations related to each of the seven undercover visits. ALJ Ex. 4–6.

[2] *But see* R.D. at 107 (Conclusion of Law Number Seven) (stating that ''between December 2011 and April 2012 the Respondent issued prescriptions . . . for controlled substances that were not for a legitimate medical need and were not issued in the ordinary course of a professional medical practice''). The Recommended Decision contains no explanation for this inconsistency.

BM0288983, which authorizes him to dispense controlled substances in schedules II through V as a practitioner, at a registered address in Conyers, Georgia. GX 1. Respondent's registration was due to expire on January 31, 2013. *Id.* However, on January 30, 2013, Respondent submitted a renewal application. GX 2, at 1. While Respondent's application has not been approved and remains pending until the resolution of this proceeding, because the application was timely filed, Respondent's registration remains in effect. 5 U.S.C. 558(c).

The Investigation of Respondent

In either October or November 2010, Respondent answered a newspaper advertisement, which apparently sought a physician for a pain management clinic. Tr. 279; GX 34, at 3. Thereafter, Respondent met one Mark Del Percio at a restaurant; Del Percio told Respondent that he was opening Liberty and that while he had interviewed another doctor, ''he wanted somebody closer to his age.'' *Id.* at 280. Del Percio offered the job to Respondent, who began working at Liberty in January 2011. *Id.* Liberty was located in Norcross, Georgia, a suburb of Atlanta. GX 9, at 2; Tr. 238, 282.

Respondent admitted that Del Percio told him ''that he had a partner named Charles,'' and ''that Charles would be working out of one of the rooms in the office,'' but ''Charles never showed up.'' Tr. 280. Respondent further testified that he ''never met Charles,'' ''never talked to [him] on the phone,'' and ''didn't even know his last name.'' *Id.* Charles' last name was Laing. *Id.* at 282.

Respondent admitted that he knew Del Percio was from Florida and that he did not have a background in pain management. Tr. 349. He also testified that he did not ask Del Percio why he wanted to open a pain clinic when Del Percio had no background in pain management. *Id.* at 348. Respondent nonetheless claimed that he did not find this unusual. *Id.* at 349. Nor did Respondent ask Del Percio why he wanted to open a pain clinic in Georgia, even though he acknowledged having read about the pill mills in Florida and further testified that he knew ''they were prescribing an excessive amount of oxycodone . . . 120—240 of the 30s, and 120 of the 15s.'' *Id.* at 350. Respondent further testified that he did not ask Del Percio about his background and did not ''do a criminal check on him.'' *Id.* at 349.

According to Respondent, during his first month, he saw ''maybe ten people.'' *Id.* at 281. Because the business was slow, Del Percio hired ''a marketing person''; ''[t]he following month, more patients began to come in, and the following month, even more patients began to come in,'' with ''quite a few'' of the patients coming ''from Tennessee.'' *Id.*

Indeed, according to a Task Force Officer, Investigators executed a search warrant at Liberty pursuant to which they seized 881 patient files. Tr. 84, 226–7; GX 3, at 19. Upon reviewing the patient files, the Investigators determined that 690 patients (or 78.3%) of Liberty's patients came from Tennessee; by contrast, only 54 patients lived in Georgia.[3] GX 4, at 1. Moreover, the Investigators determined that 27 of the patients lived on Beech Creek Road in Tennessee (including Charles Laing's mother) and in at least nine instances, two or three patients lived at the same address.

Based on their review of the 881 patient files, the Investigators determined that 875 patients received oxycodone, while six patients did not. GX 3, at 19. However, of the six patients, four of them received Percocet 10/325, a combination drug which contains ten (10) milligrams of oxycodone.[4] *See id.* at 4 (Pt. S.A.), 11 (Pt. J.I.), 12 (Pt. J.L.), and 16 (Pt. J.S.). Thus, nearly every patient Respondent saw received oxycodone, which according to a Task Force Officer, is ''the drug of choice among pill seekers and diverters.'' Tr. 260.

In June 2011, Respondent came to the attention of DEA after the Hawkins County, Tennessee Sheriff's Office (HCSO) executed a search warrant at the home of Charles Laing in Rogersville, based on information it obtained that Laing was involved in trafficking oxycodone obtained by persons from Liberty. GX 40, at 2. According to a DEA Task Force Officer, the HCSO seized oxycodone, Xanax and Suboxone totaling approximately 300 tablets, as well as appointment cards for Liberty. *Id.* at 2. The Investigators also determined that Laing co-owned Liberty with Del Percio, and that Respondent was Liberty's prescribing physician. *Id.*

Thereafter, DEA and the Norcross, Georgia Police Department conducted surveillance operations at Liberty. According to several Investigators, Liberty did not have any signage or other markings outside the building in which it was located, Tr. 76, and when the Investigators first went to the clinic, ''there was no way to know if [they] were at the right location.'' *Id.* at 77. It was not until the next morning when the Investigators returned and observed an ''abundance of'' cars with ''Tennessee tags parked in front of the'' clinic that they knew that they were at the right location. *Id.*

During their surveillance of the clinic, the Investigators observed numerous cars arriving at the clinic that had out-of-state license plates, including cars from Tennessee, Kentucky, North Carolina, and Florida. GX 40, at 2. They also observed that in some instances, the cars had multiple passengers who would then enter the clinic. *Id.* at 2–3. Finding their observations to be consistent with drug diversion, the Investigators decided to conduct undercover visits at the clinic to determine if Respondent was issuing unlawful prescriptions. *Id.* at 3. Between August and December 2011, three TFOs conducted a total of seven visits.[5]

The Visits of TFO Vickery

In his role as L.C., Officer Vickery made four visits to Liberty Wellness Center, the first of which occurred on August 22, 2011. Tr. 158. Vickery explained that ''[m]ostly every time I was there, every chair was full, so that [there] would probably be 30, 35 people sitting there, all younger crowds . . . the majority of [the patients were] under 40.'' *Id.* at 207. Vickery also testified that while in the waiting room, he ''could overhear [the patients] talking back and forth about what they're getting from different doctors, where they're filling at, what pharmacy charges what. You would see that a lot of the patients would travel in groups.'' *Id.* at 207–208.

Officer Vickery further testified during the time he spent in the waiting room, he was able to identify persons acting as ''sponsors.'' *Id.* at 208. He described a sponsor as someone who ''takes care of everything as far as financial, getting their MRIs, their prescriptions filled,'' and the sponsor ''would deal with the owner of the clinic, up until the point to where . . . the patient finally went back to see the doctor.'' *Id.*

Officer Vickery testified that he observed that only two people worked at the clinic, Del Percio and Respondent. Del Percio was ''actually

[3] The Investigators found that the other Liberty patients came from the following States in the following amounts: South Carolina (21); Virginia (37); Kentucky (41); North Carolina (19), Florida (11), West Virginia (7), and Arkansas (1). GX 4, at 1.

[4] Of the remaining two patients, one (E.P.) received Lortab 10/500mg (a combination drug containing hydrocodone) and one (J.P.) was never seen by Respondent. GX 3, at 1–2.

[5] Having reviewed the entire record, I deem it unnecessary to make findings regarding the single visit of TFO Jones.

controlling everything that [was] going on out in the front area.'' *Id.* at 209–212. According to Vickery, once a patient entered the waiting room, Del Percio would not allow the patient to go outside to smoke or go to the parking lot, such that if the patient had to leave the waiting room before seeing the doctor, he or she would have to leave the area. *Id.* at 210. Del Percio's duties included answering the phones, arranging appointments, providing the patients with the intake forms and receiving them back, collecting the patients' payment, answering their questions, taking their blood pressure, and directing them to provide urine samples. *Id.* at 212–14. Only after the initial intake was completed would patients be escorted back to Respondent's office.

Officer Vickery also stated that each time he received treatment at Liberty Wellness Center he paid $300 in cash. *Id.* at 167. He testified that the clinic required cash payments, that it ''didn't do insurance,'' and was told, ''well, we're in the process of getting our insurance accepted, but we haven't been approved for anything so everything's got to be cash at the moment.'' *Id.* at 210–211.

According to Vickery, Respondent's office had a massage table that served as the examination table. *Id.* at 215. Vickery testified that while the table was used during the examination done by Respondent at his first visit, he remained fully clothed. *Id.* Vickery further testified that during his three subsequent visits, he remained seated in an office chair for the entirety of each visit. *Id.* at 216.

Officer Vickery explained that he had obtained an MRI for another investigation and that he presented the MRI to Del Percio, along with a false Georgia driver's license showing a Newnan, Georgia address, which was located approximately 60 miles from the clinic. *Id.* at 160–161. Vickery testified that he brought the MRI to the August 22, 2011 visit because he had been to the clinic twice before and that during those visits, Del Percio told him he needed an MRI before he could be seen by Respondent. *Id.* at 163, 165. Vickery also testified that the MRI was of the lumbar spine, based on a complaint of ''LBP'' or lower back pain. *Id.* at 164; GX 27, at 4.

The MRI Report states that ''[t]here is no significant disc disease at L1 through L3.'' GX 27, at 4. However, at L3–L4, it states that ''[a] left far posterolateral asymmetrical disc protrusion with annular tear is noted'' and that ''[d]isc material effaces the exiting left L3 nerve root.'' *Id.* At L4–L5, it notes a ''posterior disc bulging effacing the thecal sac without nerve root impingement,'' and that at L5–S1, ''[t]here is low-grade disc bulging without significant mass effect.'' *Id.* The report then states that ''[t]here is no extruded disc herniation identified. No central canal or neuroforaminal canal stenosis is identified.'' *Id.*

However, on his medical intake form, Vickery listed his chief complaint as shoulder pain, and reported that ''with medication'' his pain level was a ''0'' (this ''being no pain''), and ''without medication'' a ''5.'' *Id.* at 5. He explained that he did this ''basically to see if I could get into the clinic without an MRI, like I was told I needed, on an ailment or an injury different than what I gave them.'' Tr. 165. However, on the third page of the intake form, which listed a large number of medical conditions, Vickery placed an ''x'' in the blanks corresponding to both his back and shoulders.[6] GX 27, at 7.

There are video recordings of Officer Vickery's office visits with Respondent, and three computer disc files containing recordings of brief exchanges between Vickery and Del Percio during the first visit. RX G, Disc N–29.

During the time Officer Vickery spent with Respondent, the two discussed Vickery's physical condition and the likely reasons for his pain. Respondent made no mention of the distance between Liberty and Vickery's home address, nor did he ask why Vickery had come to Liberty. When Respondent asked Vickery if he had a history of back injuries, Vickery said no, but that he worked in construction and home improvement, and that his age was ''starting to catch up to'' him. GX 28, at 2; RX G, Disc N–29.

Vickery explained that he had tried ibuprofen but that ''it just didn't,'' and that he had got a few ''oxys'' and they worked.[7] GX 28, at 2. He then explained that he had seen a Dr. Chapman in Cartersville, who treated him with Dilaudid and Xanax and ''sometimes Oxy 30s, sometimes . . . Oxy 15s. It was just whatever I needed for the break through.'' *Id.* at 2–3. Vickery further stated that his previous doctor had written prescriptions for 100 Dilaudid 4mg (but did not keep him on the drug for ''very long''), 120 oxy 30s, 90 oxy 15s for the breakthrough, and 60 Xanax 2mg. *Id.*

When Respondent asked ''where are you hurting now,'' Officer Vickery did not deny having pain, but replied: ''Well, sometimes it's the shoulder, sometimes the lower back. It just comes in spurts.'' *Id.* at 3. Respondent then asked him how bad his lower back pain was; Vickery replied, ''Like today, it's not bad, because . . . I hadn't been working because construction has been slow.'' *Id.* at 4. Respondent then stated: ''when you're not working, you don't have much pain is what you told me.'' *Id.* Vickery agreed with this characterization, stating that he ''just kept going,'' adding that Dr. Chapman told him to do so. *Id.* Vickery then told Respondent that he was returning to work the next week, and he wanted ''to get on track so I . . . won't miss work next time.'' *Id.* at 4–5.

When Respondent asked him about his pain levels, Officer Vickery said that without medication, his pain was ''probably around a five'' on a ten-point scale, but with medication, it was ''almost down to zero.'' *Id.* at 5. Respondent then asked whether Vickery had ever had any treatment other than pain killers, including epidural injections, chiropractic service, physical therapy or surgery. *Id.* He also engaged in a lengthy discussion with Vickery about his consumption of caffeine, learning that Vickery was drinking about four 24-ounce cups of coffee a day. *Id.* at 6–8. After Vickery told him that he drank very little water each day, Respondent stated ''we're in trouble,'' adding ''what if I told you, you were on your way for a dialysis soon?'' *Id.* at 8. Respondent recommended that Vickery cut back on his caffeine consumption and increase his daily water intake, explaining that caffeine can damage the kidneys and contribute to back pain. *Id.* at 9.

At this point, Respondent referred to a model of a spine, showing those areas when the discs lose water and explaining that this can cause pain. *See* RX G, Disc N–29. Respondent then reviewed Vickery's MRI report, and explained that the MRI showed that he had bulging discs, one effacing the thecal sac; one with material affecting the spinal nerve roots; and still another, which had an annular tear resulting in

[6] As part of the intake process, Vickery (as were the other undercover officers) was required to review and sign a Pain Management Agreement. GX 27, at 9–10. The Agreement contained twenty-two paragraphs, including one which states that ''I will not share, sell, or trade my medications with anyone.'' *Id.* at 10. Moreover, at his subsequent visits, Vickery was required to complete a Patient Comfort Assessment Guide, which included the statement and question: ''To sell or divert and [sic] of my medication is illegal. Do you give permission to this clinic to report any illegal incident?'' *Id.* at 22. The same form also include the question: ''Do you understand this clinic has reported a number of individuals to authorities for illegal behavior?'' *Id.*

[7] Officer Vickery also testified that when trying to obtain oxycodone from Respondent, he referred to them as ''30s'' ''because it's basically street lingo, drug lingo, and that's what most of the addicts, drug dealers, whatever, refer to the oxycodone as . . . by their milligrams.'' Tr. 173–74.

a bulge pressing on a nerve end. GX 28, at 10–11. Respondent warned Vickery that drinking caffeinated coffee and not that much water would cause more pain. *Id.* at 11. He then stated that ''the first thing we need to do is work on these—getting rid of a lot of this caffeine and get you up to maybe half a gallon of water. I think that's going to make a big difference in your pain. It may get rid of all your pain.'' *Id.*

Respondent had Vickery sit on the exam table and then lie on his back, at which point, he directed Vickery to lift his legs, one at a time, ''straight up,'' and asked if this ''bothered [him] at all''; Vickery answered ''no.'' *Id.* Respondent then directed Vickery to turn over onto his stomach, palpated Vickery's back in several areas, asking if it bothered him. *Id.* at 12. In response to the first palpation, Vickery replied that ''It's a little tender right there, yeah.'' *Id.* The next three times, Vickery denied any pain. *Id.* However, the fifth time, Vickery replied ''Well, it's a little sore to me because I spent [yesterday] washing my car.'' *Id.*

Respondent then asked Vickery if he had tried anti-inflammatories; Vickery answered that he had quit taking them because they didn't do anything for him and added that the only drug that worked for him were the drugs he was getting from Chapman—the 30s and the ''15s every now and then.'' *Id.* at 12–13. Respondent then asked if he had taken Percocet, Vicodin, or Lortab; Vickery replied that he had tried Lortab but that it didn't work for him. *Id.* at 13. Respondent stated that Vickery's ''main thing'' was to get away from the caffeine and that he also needed to use the anti-inflammatories for three to four months for them to work. *Id.* Respondent also asked Vickery if he had tried muscle relaxants such as Flexeril or Robaxin; Vickery said that he had tried them but they ''just never worked.'' *Id.* at 13–14.

After Respondent told Vickery he was going to place him on an anti-inflammatory, he asked Vickery when he had last taken oxycodone. *Id.* at 14. While this visit took place on a Monday, Vickery said that he had probably taken three tablets late Thursday or early Friday morning. *Id.* Respondent then asked Vickery if he took the oxycodone because he was hurting or just to take them; Vickery did not answer directly, replying that ''I could feel something coming on.'' *Id.*

Respondent suggested that this was because of Vickery's coffee consumption and ''not having enough water in your system.''' *Id.* at 15. While he then told Vickery that his ''x-rays do show that you have a problem, but your exam is not showing a whole lot at all,'' Respondent said: ''I'll try you on maybe two or three times a day and see how that works for you.'' *Id.* He added, however:

> I'm not even sure you need that much, because, I mean, your x-ray—your x-ray shows that your nerves are being pinched on, but [unintelligible] I just don't feel a whole lot. Okay. And what that suggests to me is that if you get away from the caffeine and drink more water, you're probably not going to have any pain at all.

Id.

Vickery then asked if could get some Xanax for ''the night.'' *Id.* While Respondent told Vickery that Xanax and Oxycodone is not a real good mixture, and that they both ''suppress your lungs'' and that he ''may not wake up,'' he agreed to prescribe 30 tablets of Xanax 1mg to him. *Id.* at 15. Vickery asked if he could get 60 tablets, explaining that ''my wife kind of uses them, too''; Respondent stated, ''No. She can't use your medicine.'' *Id.* at 16. When Vickery persisted, saying that ''she takes them every now and then, and it's like, come on,'' Respondent repeated his earlier answer, stating ''she's got to get her own medicine,'' and ''[y]ou've got to hide your stuff, [s]he can't . . . take your medicine.'' *Id.* After a further discussion of the Vickery's caffeine use, the visit ended.

Officer Vickery paid $300 cash to Del Percio for the visit. Tr. 167. Respondent issued Vickery prescriptions for 90 tablets of oxycodone 30mg, a schedule II narcotic; 30 tablets of Xanax 1mg, a schedule IV benzodiazepine; and 60 tablets Naproxen, a non-controlled drug. GX 27, at 2.

Officer Vickery testified that he not been taking oxycodone, notwithstanding his representation during the visit. Tr. 171. He also testified that contrary to what he wrote in his medical history, he was not being treated by Dr. Chapman, and had not been prescribed Xanax or Dilaudid. *Id.* at 172–73. Moreover, he had not been taking oxycodone or any other prescription drugs. *Id.* at 171, 173. Vickery testified that while he was required to provide a urine sample prior to his visit with Respondent, he did not know what the test results were and they were not discussed with him. *Id.* at 170.

On cross-examination, Officer Vickery testified that he believed Dr. Chapman's medical office had been closed before his initial visit to Liberty. *Id.* at 201. Respondent subsequently testified that while he was working at Liberty, he ''had heard the word 'pill mill.' Dr. Chapman's office was shut down and they called it a pill mill.'' *Id.* at 346. However, Respondent otherwise denied knowing why Dr. Chapman's office was shut down. *Id.* While the closure of Chapman's clinic may have resulted in Respondent being unable to obtain medical records from it, according to Officer Vickery, Respondent never attempted to obtain his purported medical records from Chapman. *Id.* at 172.

On September 22, 2011, Officer Vickery returned to see Respondent. Tr. 179; GX 27, at 20. Recordings were made of this visit,[8] which were also transcribed. *See* RX G, Disc N–42; GX 29. Prior to seeing Respondent, Vickery completed a form entitled ''Patient Comfort Assessment Guide'' on which he wrote that he had back pain and circled the words ''aching,'' ''sharp,'' ''nagging,'' ''unbearable'' and ''continuous.'' GX 27, at 22. Asked by the form to rate his pain in the last month ''with medication,'' he indicated that it was a ''6'' ''at its worst,'' a ''2'' ''at its least, and a ''5'' on ''average.'' *Id.* He also noted that ''right now,'' his pain was a ''3.'' *Id.* Finally, he noted that oxycodone 30 provided a level of relief of ''3,'' where 0 was ''no relief'' and 10 was ''complete relief.'' *Id.*

Officer Vickery's visit with Respondent lasted just under six minutes. *See generally* RX G, Disc N–42. As was the case with the initial visit, Vickery was required to provide a urine sample for drug screening; however, Respondent did not discuss the results of either the previous test or this test. Tr. 187. Nor did Respondent discuss with Vickery his records from any prior treating physician. *Id.*

Upon being seated in Respondent's office, Officer Vickery commented on the number of patients yet to be seen in the waiting room while Respondent, who was seated at his desk, made notes on one of about a dozen medical folders before him. GX 29, at 1. Twenty-two seconds into the recording, Respondent rose from his chair and moved to where Vickery was seated. Respondent asked Vickery to lean forward, and after six seconds or so, during which time no one spoke, returned to the chair behind his desk. RX G, Disc N–42, clip 7.

Officer Vickery testified that Respondent ''walked over to where I was at, took his hand, r[a]n it down my back; then went back and sat down at his desk.'' Tr. 181. Vickery stated that in running his hands down his back, Respondent was ''kind of just like pushing down, as you're going down from the top of your neck, down

[8] There are seven video files on the disc, six of which depict people sitting in the clinic's waiting room or Officer Vickery's actions before or after the office visit, and have no probative value. RX G, Disc N–42.

towards your body with the tip of your fingers.'' *Id.*

At no time during this visit did Respondent inquire of Officer Vickery's pain level, nor did Vickery raise the subject. *See* GX 29; RX G, Disc N–42, clip 7. Nonetheless, in the Physical Exam section of the Progress Notes for this visit, Respondent wrote ''Lumbar—severe tenderness over paravertebral muscle with [two up arrows] muscle tone.'' GX 27, at 20. Nothing in the recording, however, suggests that Officer Vickery indicated either by word or physical response that he was experiencing severe tenderness in any part of his body. *See* GX 29; RX G, Disc N–42, clip 7.

Similarly, the progress note describes Officer Vickery's chief complaint as ''pain is 5 with medication.'' GX 27, at 20. While on the ''Patient Comfort Assessment'' form for this visit, Vickery circled ''5'' as his average pain ''in the last month with medication,'' he also circled ''3'' as his pain ''right now.'' *Id.* at 22. Moreover, at no point in the various recordings of the visit, did Vickery assert to either Del Percio or Respondent that his current pain level was a 5, or even suggest that he was then in pain. *See* GX 29; RX G, Disc N–42, clip 7.

Upon Respondent's returning to his desk, he asked Vickery how the medicine was working for him. GX 29, at 1. While Vickery said ''It's fine,'' he then added that someone had told him that he was taking Opana (oxymorphone) and that it ''was working out better for them.'' *Id.* at 2. Vickery then said that ''you gave me the 30's, but I . . . think I still need some of those 15's during the in between the times.'' *Id.* Respondent then asked Vickery if he was taking the anti-inflammatory; the latter replied that he took some of them but ''I just don't like it.'' *Id.*

After a discussion of Vickery's consumption of both coffee and water, Vickery told Respondent that ''it just seems like in between my 30's, I need something in between there.'' *Id.* at 3. When Respondent suggested that ''that's where the Naproxen comes in,'' Vickery replied ''that it just didn't do anything.'' *Id.* Respondent told Vickery that while the Naproxen ''feel[s] like it's not doing anything, . . . it's working for you.'' *Id.* Vickery took issue with Respondent, explaining that ''[b]ut then I'm having to . . . put some beers on top of it to kind of go through all that stuff.'' *Id.*

After asking Vickery if he was ''taking 90 of the Oxycodone'' and Vickery asked if he could ''up them,'' Respondent agreed and added, ''[w]e'll take you up to 120'' and ''[s]ee if that works better for you.'' *Id.* Vickery then asked Respondent if he thought that Opana was ''worth anything''; Respondent answered that different drugs work differently on different persons and offered to prescribe Opana, while rejecting Vickery's request to try Opana with the Oxy 30s. *Id.* at 3–4. Respondent then told Vickery that he could ''go with just the plain Opana by itself, or you can go with the Oxycodone.'' *Id.* at 4.

Officer Vickery then asked if he got the Opana, could he also ''get some of the 15's just in case.'' *Id.* When Respondent said ''no,'' Vickery replied: ''Doc, you killing me, man. Even if I float you a little bit extra on the side, maybe a couple hundred bucks on the side to.'' *Id.* Respondent again said ''no,'' and then explained that Opana came in 10, 20 and 40 milligram dosage units. *Id.* Vickery asked if he could ''get the 40's''; Respondent replied: ''I would try it three times a day'' and asked Vickery if he ''want[ed] to try that?'' *Id.* Vickery agreed, notwithstanding that Respondent told him that Opana was ''pretty expensive,'' but then asked for some Lortabs for ''in between them,'' adding that the Naproxen ''just doesn't work.'' *Id.* at 4–5. Respondent insisted that the Naproxen would work with time. *Id.* at 5.

Apparently upon reviewing the prescriptions, Officer Vickery complained that Respondent had decreased the amount of his Xanax prescription. *Id.* When Respondent explained that he had gotten 30 last time, Vickery complained that ''they didn't last me all month. . . . They didn't last at all. You being stingy, Doc.'' *Id.* Vickery's visit with Respondent then ended.

Respondent gave Vickery three prescriptions: one for 90 Opana ER 40mg, a schedule II controlled substance, one for 30 Xanax 1mg, and one for 60 Naproxen. GX 27, at 21. Moreover, Respondent did not document in the medical record Vickery's attempt to buy extra drugs from him. *Id.* at 20.

Officer Vickery testified that his goal in this visit was to determine whether he could get more Opana (oxymorphone) or oxycodone, and he was ''just kind of bargaining to see what I could get . . . prescribed to me, just by asking for whatever.'' Tr. 182–183. As Vickery put it, the exchange recorded during this visit would best be described as one between a ''drug dealer and a supplier.'' *Id.* at 184.

On October 24, 2011, Officer Vickery made a third office visit with Respondent. GX 30, at 26. A video recording and transcript of the visit were entered into evidence. One video file captures the office visit from start to finish and provides a fairly steady view of Respondent from across his office desk. RX G, Disc N–49, Clip 4.

As with the first and second visits, Del Percio had Officer Vickery produce a urine sample for drug screening, but neither he nor Respondent discussed the results of this screening with Vickery. Tr. 187. Thus, there was no discussion of any possible inconsistency between what Vickery told Respondent about his current use of narcotics and the results of his urine screen—although Vickery testified that he was not taking any medications at the time of this office visit. *Id.* at 188.

Once again, Vickery completed a Patient Comfort Assessment form, in which he complained of back pain that was ''aching,'' ''exhausting, ''nagging,'' and ''continuous.'' GX 27, at 28. Rating his various pain levels ''in the last month with medication,'' Vickery circled ''O'' for the ''worst'' his pain was, the ''least'' it was, and his ''average'' level. *Id.* However, he then circled ''3'' for his pain level ''right now.'' Moreover, while he then wrote that ''meds'' made his pain better, he also wrote that Opana 40mg provided no relief, oxycodone 30 provided relief at a level of 1 (where 0 was ''no relief'' and 10 ''complete relief''), and that Xanax 1mg provided no relief. *Id.* at 28–29.

The entire office visit with Respondent took approximately seven minutes. RX G, Disc N–49, Clip 4. About two minutes elapsed at the beginning of the visit, during which Respondent remained seated behind his desk, apparently making notes in Vickery's medical record. *Id.* During this time the dialogue between Respondent and Officer Vickery focused almost exclusively on the medications that were prescribed, with Respondent asking ''how's the medicine working for you,'' and Vickery reporting that ''[i]t's good,'' but that he would ''like to get something for'' break-through. GX 30, at 2. Respondent then asked Vickery if he had ''taken Lortabs''; Vickery replied that ''I may have before,'' and added that he thought ''the Percocets do better than the Lortab.'' *Id., See generally* RX G, Disc N–49, Clip 4.

Vickery then explained that the Opanas ''went pretty quickly,'' asked Respondent if he could ''raise some of them or may be up the Percocet,'' and added that ''the Oxy 15's worked perfect for me in between . . . everything.'' *Id.* Notwithstanding that he had not previously prescribed Percocet to Vickery, Respondent asked: ''you're taking the Percocet also?'' *Id.* Vickery

answered that he had ''taken them before with the Oxy,'' at which point Respondent left his chair and asked if he could press on Vickery's back. *Id.*

The entire exam lasted less than thirteen seconds, and while the video does not show what it involved, Officer Vickery testified that this exam involved his ''just lean[ing] over in the chair. [Respondent] would take his hands, both rub from the top to the bottom. . . .'' Tr. 189. As this occurred, Vickery stated that he ''was always the getting the 30's . . . and then I'd take the 15's in between'' and that Chapman ''was giving me 180 of the 30's'' and ''90 or 120 of the 15's in between, something like that . . . [a]nd those seemed to get me through the whole 28-day cycle.'' GX 30, at 2–3. After Respondent said that Liberty used a 30-day cycle and that Vickery was ''here a little early,'' Vickery maintained that ''this is the appointment he gave me'' and Respondent conceded that it was not Vickery's fault. *Id.* at 3.

Vickery explained that he had a hard ''time getting a ride up here'' and that he had been dropped off by his buddy. *Id.* Vickery then told Respondent that his buddy liked Xanax and had asked him to give Respondent ''200 bucks and see if he'' would write a prescription for Xanax. *Id.* Respondent laughed; Vickery showed him the cash and said: ''I don't know if you can do that and put it in my name for an extra—or up my Xanax some.'' *Id.* at 3–4. Respondent replied: ''No, we can't do.'' *Id.* at 4. Vickery asked: ''Can we do that?''; Respondent answered ''no.'' *Id.*

Vickery then asked if he was getting 40 Percocet; Respondent said ''right.'' *Id.* Vickery then complained that Respondent was ''stingy,'' explained that he ''was used to what [he] was getting,'' and asked if he could up the Xanax prescription because the 30 tablets ''didn't get me through two, three weeks.'' *Id.* When Vickery further asserted that he had been getting 60 of the two milligram Xanax, Respondent stated that he had been ''doing 45.'' *Id.* Respondent then suggested that if Vickery's friend had a problem with anxiety and needed Xanax, he could go to a walk-in clinic. *Id.* Vickery then asked: ''so you can't do nothing?''; Respondent said ''No.'' *Id.*

Respondent gave Vickery prescriptions for 90 tablets of Opana 40mg, 45 tablets of Xanax (an increase from 30), and 40 tablets of Percocet 10/325, which was an additional prescription.[9] GX 27, at 27. On each of the controlled substance prescriptions, Respondent wrote: ''an emergency exists for Rx.'' *Id.*

Here again, Respondent did not document Vickery's attempt to purchase additional controlled substances from him. *See id.* at 27. Instead, he wrote that Vickery was ''having more problems [with] anxiety.'' *Id.*

Officer Vickery returned for a fourth visit to Liberty Wellness Center on December 1, 2011. GX 31; GX 27, at 32–37; RX G, Disc N–54. Vickery testified that he was intentionally one week late for his appointment so that ''I would have been out of my medication for over seven days.'' Tr. 194. Before meeting Respondent, Officer Vickery was required to produce a urine sample and complete another Patient Comfort Assessment form. Tr. 191; GX 27.

On the form, Vickery noted that he had back pain which was aching, exhausting, and tiring, but was only occasional. GX 27, at 34. Rating his worst, least, and average pain level in the last month with medication, Vickery circled 0, indicating no pain, for all three levels. *Id.* However, he then claimed that his pain was a ''3'' ''right now.'' *Id.* While he also wrote that ''meds'' made his pain better, he then indicated that each of the three drugs (Opana 40, Percocet 10/325, and Xanax 1mg) provided ''0'' relief. *Id.* at 34–35.

Upon meeting, Vickery told Respondent that the Opana was ''doing good'' and was ''unbelievable,'' but that he had been ''talking to some people'' who said he could get ''25 milligram caplets'' instead of the oxy 30 pills. *Id.* at 3–4. Respondent asked Vickery where he would get ''those filled''; Vickery replied that someone told him he could go to a pharmacy (Stacy's) that did compounding. *Id.* at 4. After Vickery said that he had heard in the lobby ''that the pills are getting scarce,'' Respondent replied: ''yeah, yeah, yeah.'' *Id.* Respondent then advised Vickery that he may want to check with the pharmacy ''to see if there's any available because sometimes they have it and sometime they don't.'' *Id.*

After some small talk about Thanksgiving, Respondent asked Vickery to rate his pain on the one to ten scale; Vickery replied that is was ''[a]round 3,4'' but that ''it comes and goes.'' *Id.* at 5. Respondent then asked Vickery to rate his pain when he was ''on the medicine''; Vickery replied that it was ''down around almost nothing really on the medicine.'' *Id.*

Respondent then got up and asked Vickery to let him ''press on [his] back a little bit''; Vickery agreed. Respondent asked Vickery to lean forward, pressed on Vickery's back and asked, ''[d]oes that bother you?'' *Id.* While Vickery's answer is unintelligible, Respondent then asked, ''[b]ut not a lot of pain?'' *Id.* at 5–6. Vickery replied: ''I guess today I'm having kind of a good day . . . but then again, I didn't work today.'' *Id.* at 6.

Respondent said ''[t]hat a good thing'' and added that ''I don't even think you need those 25's,'' a point which he then reiterated. *Id.* Vickery stated that ''I really do, Doc. I need the 25's, especially since I been taking all that other stuff. I been taking the Opanas, and I had Percocets.'' *Id.*

Respondent then observed that Vickery was ''a week late'' and was ''still not having much pain.'' *Id.* Vickery replied, ''Okay, well, I'm having a lot of pain Doc,'' to which Respondent said ''no'' and started laughing. *Id.* Vickery insisted that he was ''in a lot of pain'' and that ''Doc [your] kill [sic] me.'' *Id.* After Respondent replied, ''no, no,'' Vickery asked him for ''something to hold me'' because ''it's going to be a mess'' when he resumed working. *Id.*

At this point, Respondent, for the first and only time during Vickery's four visits, discussed his urine test results, noting that ''you're doing good. I mean, your urine doesn't show any medicine in your system. You're not having much pain. I mean, you're actually doing pretty good.'' *Id.* After Vickery said ''okay,'' Respondent added: ''I'm not sure if you need much of anything.'' *Id.* Vickery then asserted that he needed ''at least my oxy's . . . and my Xanax,'' prompting laughter from Respondent, who after an unintelligible comment by Vickery, asked: ''What, the anxiety's bothering you a bit.'' *Id.* at 6–7. Vickery asserted that he knew ''I'll have to have it because . . . it may not be going on right now, but . . . it will.'' *Id.* at 7. Respondent then told Vickery that ''you may not need anything but the Xanax and the Naproxen. *Id.*

After Vickery explained that he didn't take the Naproxen and did not ''even like it,'' Respondent again asked Vickery ''so how much pain are you having today?'' *Id.* Vickery said, ''well, I guess now I'm having . . . up in the five, six, seven,'' and Respondent observed, ''That's not what you told me when you came in.'' *Id.* Vickery then stated, ''I'll say around four, okay''; Respondent said: ''But that's not what you told me.'' *Id.* After Vickery stated that ''I said three or four,'' Respondent acknowledged that he ''did write down three.'' *Id.* However, Respondent then stated that ''when I pressed, you're not having much tender[ness],'' noted that there was ''no medicine in [Vickery's] system,'' and added ''you don't need much of anything.'' *Id.* Vickery asserted that he was ''going to have to have something,''

[9] He also wrote him a prescription for Naproxen.

and that he would find a different doctor ''to go to next month,'' prompting more laughter from Respondent. *Id.* at 7–8.

Vickery then explained that the Opanas ''were good'' but expensive; Respondent reiterated that there was no medicine in his urine. *Id.* at 8. Vickery stated that he didn't know why, suggested that ''maybe the urine screen is wrong,'' and added that he had taken ''one a couple days ago.'' *Id.* Respondent subsequently asked Vickery how much pain he felt when his back was pressed on; Vickery did not answer directly, stating that he ''hadn't done anything today'' and that he worked ''for the last couple of days'' and hadn't done anything ''to aggravate'' it, but that he was going back to work the next day and that if his ''appointment had been tomorrow . . . it would probably be[] a whole different story.'' *Id.* at 8–9.

Respondent said ''okay,'' and added: ''I think you can probably get away with using maybe either some Percocet or some oxy 15's.'' *Id.* at 9. Vickery then said that he would ''really like to get some of the 25's, noting that there was ''not that much difference'' between the 15's and the 25's. *Id.* Respondent agreed, Vickery asked ''why can't we do the 25's, and I can get the caplets,'' Respondent said ''okay,'' and Vickery asked for ''some Percocets in between.'' *Id.*

Respondent then asked Vickery if he would check the pharmacy ''and see if they have any 25's?'' *Id.* Vickery replied that he did not ''have a number for them,'' and added that he was ''sure they can make them'' and ''can get the stuff.'' *Id.* Vickery added that ''they can fill my . . . Xanax to hold me till they can make . . . the other stuff.'' *Id.* He then complained that Respondent was ''getting hard to work with.'' *Id.*

Respondent replied, ''No. I'm easy, but . . . I don't need you taking anything if you're not having any problem because that's not good for you. And that's where the problem is.'' *Id.* at 10. Respondent then observed that Vickery had almost no pain when he was on medication and that his pain level was only a three when he was not taking medication.[10] *Id.* Vickery then insisted that his ''3 may be somebody else's 7, 8,'' to which Respondent replied ''that's a good thing'' and ''that means you don't need as much medicine,'' and laughed. *Id.* Vickery then said: ''yes I do, yes I do, Doc. Yes, I do.'' *Id.*

Respondent reiterated that it was ''a good thing'' that Vickery did not ''feel as much pain as someone else'' and did not ''need as much medicine'' as other persons. *Id.* Vickery then stated: ''I like what I take, Doc, so—I been—used to taking it[,] kind of where I'm at.'' *Id.* Respondent replied that if ''you're used to taking it, then we're talking about somewhat of a dependency here, okay,'' and laughed. After an unintelligible remark from Vickery, Respondent stated that he was going to ''try and wean'' Vickery ''down some,'' because he did not ''need as much as . . . what you've been taking.'' *Id.*

When Vickery asked what this involved, Respondent explained that: ''I can't just cold turkey you, either, because then you have some withdrawal problems. But you haven't taken it in seven days, so I doubt you would have that.'' *Id.* at 11. Respondent then laughed, and added, ''[t]here none in your system,'' and again laughed. *Id.*

Vickery complained that Respondent was being stingy; Respondent replied that he was ''trying to keep [him] out of trouble,'' noting that ''everything suggests to me that you don't need as much as you had before.'' *Id.*

Vickery then asked ''how many 25's'' he could get''; Respondent stated that he ''was on 90'' and if he ''got the 25 a couple of times a day,'' that would keep Vickery ''out of trouble.'' *Id.* When Vickery then sought some Percocets for ''in between,'' Respondent said ''no'' and that ''[y]ou're not hurting in between.'' *Id.* Vickery replied, ''Okay, my pain is higher now. Now since I sat here and talked to you, my pain is higher.'' *Id.* Respondent laughed, and Vickery stated: ''You really got to be a pain in my back Doc. Now, I'm getting higher.'' *Id.*

Respondent laughed, and said that he would prescribe the 25's ''maybe twice a day and see how that works for you.'' *Id.* Vickery then sought more drugs for ''in between'' and asked if he could get Lortab. *Id.* at 12. While Respondent initially agreed to prescribe ''maybe one Lortab a day,'' Vickery then complained that he was only getting 60 oxycodone 25's, and asked if he could get 90. *Id.*

Respondent then asked if Vickery ''was on 90 of the Opanas,'' and after Vickery confirmed this, Respondent agreed to prescribe 90 oxycodone 25s but not the Lortabs. *Id.* Vickery said ''that's fine'' and asked ''What about Somas in between? What would those do?'' *Id.* Respondent said that it was ''a muscle relaxer'' and agreed to prescribe the drug, telling Vickery that he could take them at bedtime and not at work. *Id.* Vickery said ''okay,'' and Respondent said that he ''did feel some tight muscles back there,'' to which Vickery replied, ''[s]ee, they've gotten tighter since I'm talking to you.'' *Id.* Respondent laughed. *Id.* at 12–13.

Vickery then said he would have to ask Del Percio for the pharmacy's phone number; Respondent said there were other places that made compounds. *Id.* at 13. Respondent then reiterated his statement that Vickery was ''doing better'' and that ''the medicine is working for you,'' adding that ''you probably don't need as much as what you're taking'' as he had not had medication for a whole week and was not ''bending over in pain or anything.'' *Id.* at 13–14. Respondent then gave Vickery the prescriptions, after which Vickery said: ''I'll be in more pain next time.'' *Id.* at 14. Respondent replied: ''No, no, no, no no,'' and Vickery said: ''I know what you're saying. I'm just messing with you.'' *Id.* Following an exchange of pleasantries, Vickery left Respondent's office. *Id.*

Vickery then saw Del Percio and asked him about the name of the pharmacy that did the caplets (oxy 25). *Id.* at 15. Del Percio told Vickery that he could not ''get those today'' and asked ''why'd he give you those.'' *Id.* Vickery explained that he could not afford the Opana and that he had been told ''that there were no pills around.'' *Id.* Del Percio told Vickery that Stacy's Pharmacy did not have any caplets available today and that Vickery was to call him the next morning and that he (Del Percio) would then call the pharmacy to check on whether the caplets would be available. *Id.* Vickery agreed to ''do that,'' and Del Percio explained, ''that's how it works over there.'' *Id.* Vickery then left Liberty. *Id.*

Consistent with the recording and the transcript, Respondent provided Vickery with prescriptions for three drugs. GX 27, at 33. The prescriptions were for 90 oxycodone 25mg, 30 Xanax 1mg, and 30 Soma (carisoprodol). *Id.*

As the ALJ found, this visit ''can only be described as a negotiation over the quantity of narcotics Respondent would prescribe for Officer Vickery.'' R.D. at 44. Officer Vickery summarized this office visit in these terms: ''It appeared to me, because it was almost like it was starting out, he didn't want to give me anything. And then the further we went along and the more I kept changing my story here and there, he just decided, well, okay, we'll just go with it.'' Tr. 196.

The Visits of TFO Lawson

In his role as C.F., TFO Lawson made two office visits to Liberty, the first on

[10] Having compared the transcript with the video recording, I conclude that Respondent actually said: ''when you're not taking any, your pain level is only at a 3.'' RX G Disc N–54.

August 2, 2011, the second on September 2, 2011. Tr. 78; GX 40 at 3. He stated that his objective was to investigate ''the general activity of the clinic'' and ''to obtain prescriptions for controlled substances for no legitimate purpose.'' Tr. 81; GX 40, at 3. To do this, he ''was to make as minimal complaint as possible, provide as few indications of pain as [he] reasonably could, and to try to show that [he] was involved in diversion.'' Tr. 81.

TFO Lawson testified that Del Percio conducted the initial intake on August 2, 2011. On intake, Del Percio asked Lawson if he had an appointment (Lawson saying ''yeah''), where his MRI was (with Lawson saying that ''it should have been faxed to you'' and ''when I called I thought you had it''), and if all he was then taking was Endocet. GX 23, at 1. Lawson replied that this was the drug he got at an urgent care center he went to and that his pain clinic (which he later identified as Atlanta Medical Group in Cartersville) had been ''shut down.'' *Id.* at 1–3. Del Percio then asked Lawson again about his MRI and if he had gotten it done at Greater Georgia Imaging, with Lawson answering ''yeah.'' After searching through various documents for the MRI, Del Percio told Lawson that he would ''have them fax over a copy'' and not to ''worry about it.'' *Id.* at 2. *See generally* RX G, Disc N–13.

Next, Del Percio asked Lawson for his last name and date of birth and had him sign and date a form, after which he gave him paperwork to complete and asked him to clip his ID to the forms when he was done. GX 23, at 2–3. Included in the forms was one which solicited general health information; on the form, Lawson listed his ''chief complaint'' as his back, wrote that the pain started ''3 years ago,'' and that it was the result of an ''accident in military.'' He also indicated that his pain was a 5 without medication and a 2 with medication on a scale of 0 to 10, with ''0 being no pain and 10 being the worst pain possible.'' GX 22, at 5.

Del Percio asked Lawson where he had previously gone and how he had heard about Liberty; Lawson replied that a buddy had told him and that ''everybody else was giving me the runaround because my place was shut down.'' *Id.* at 3. Del Percio then gave Lawson an additional form to complete, again asked him to clip his ID to it when he was done, and told Lawson that he would need to provide a urine sample.

After completing the interview, Del Percio collected $300 in cash from Officer Lawson and brought him into Respondent's office, where after exchanging pleasantries, Respondent stated that Lawson's x-rays [11] showed that he had ''a little bulging disc'' and asked if he had ''any injuries at all to [his] back.'' GX 23, at 4. Lawson said that ''ten years ago,'' while he was ''in the military,'' he was in a Humvee that ''went off the road.'' *Id.* Respondent asked Lawson where he was now hurting; Lawson said, ''about mid-back.'' *Id.*

Respondent then asked, ''[d]oes the pain go anywhere?'' Lawson said that it depended on what he was doing and that he hadn't ''been at work today.'' *Id.* at 4–5. He then explained that on a normal day, ''it's usually all in the same place.'' *Id.* at 5. However, Lawson denied having ''any numbness or tingling in [his] legs.'' *Id.* Respondent then asked Lawson to rate his usual pain level on a scale of one to ten; Lawson said ''five.'' *Id.*

Next, Respondent asked if anyone had recommended that Lawson receive injections or surgery and if he had seen either an orthopedic surgeon or neurosurgeon. *Id.* Lawson answered ''no'' to both questions. *Id.* Respondent also asked if this had been ''looked at in the military,'' Lawson said that ''was so long ago,'' and after he ''got out,'' he ''went to the VA,'' but ''they patch you up and send you on.'' *Id.* Respondent then asked Lawson if he would want to undergo surgery; Lawson answered ''[n]ot necessarily.'' *Id.*

Respondent asked Lawson about his fluid consumption. *Id.* Lawson said that he usually drank three cans of Mountain Dew a day, a glass of tea at both lunch and dinner, four bottles of water, and alcohol on the weekends. *Id.* at 6–7.

Next, Respondent asked Lawson what medicines he had taken that had helped. *Id.* at 7. Lawson stated that when he ''was going to Atlanta Medical Group,'' he was taking oxycodone, Soma, and ''Xanax to help with the jitters.'' *Id.* Lawson further stated that he was taking the thirty milligram oxycodone, ''at most . . . 3 a day''; that he thought he was supposed to take one Soma a day but that the clinic had ''been shut down for two months''; and that he took the Xanax two milligram tablets. *Id.* Respondent then noted that Lawson been ''taking something in the past month''; Lawson explained that he had gone ''to an urgent care place'' after his ''clinic got shut down,'' where he got ''two weeks'' of Percocet, which ''hardly'' worked for him. *Id.*

Respondent then asked if Lawson had ever been prescribed the oxycodone 15's; Lawson replied that it had ''been so long when they did this,'' but ''at one point'' they gave him ''a few of the 15's to try to cut down on taking the three 30's a day.'' *Id.* Lawson then denied that the 15's had been prescribed in the place of the 30's, and when Respondent suggested that they had been given to him ''for breakthrough,'' he agreed. *Id.* at 8–9.

Respondent then told Lawson that he was drinking a half gallon of caffeine a day, plus alcoholic beverages on the weekend, and that this was causing his body to lose water, and that ''the less water you have in your system, the more pain you're going to have.'' *Id.* at 9. Continuing, Respondent stated that a muscle that is not ''well hydrated goes into spasms'' and causes pain. *Id.* He also told Lawson that his caffeine consumption was ''going to mess up [his] kidneys'' and that he was surprised that Lawson was ''even sleeping at night drinking that much caffeine.'' *Id.*

Respondent then showed Lawson a model of the spine and explained that his discs lost ''water throughout the day'' and because he was drinking lots of caffeine, the discs were not filling back up with water at night while he was sleeping. *Id.* Respondent explained his ''x-ray'' showed he had a bulging disc, pointed to where the disc was on his spine model, and explained that he actually had two bulging discs, one ''between L4 and L5,'' that was ''actually coming near or pressing on the spinal cord a little bit,'' and one at ''L5–S1, where it's just back here bulging.'' *Id.* at 9–10. Respondent then reiterated his earlier advice that Lawson needed to reduce his caffeine consumption to one can of Mountain Dew per day and to increase his water consumption to six bottles per day. *Id.*

Respondent then asked Lawson to sit on the exam table and performed a physical examination. *Id.* The video shows that the exam consisted of Respondent testing Lawson's left and right patellar reflexes with a hammer; having Lawson lie on his back and raise each leg and asking whether each movement hurt, with Lawson saying no [12]; having Lawson turn over on his

[11] Lawson's undercover patient file included an MRI report which is dated July 22, 2011 and which lists the referring physician as ''LIBERTY.'' GX 22, at 3. The report notes ''no significant disc disease at L1–L2, L2–L3, and L3–4. *Id.* At L4–L5, the report notes that ''[t]here is broad based low grade disc bulging abutting the ventral thecal sac without significant mass effect or nerve root impingement,'' and at L5–S1, it notes that ''[t]here is posterior low grade disc bulging without significant mass effect identified.'' *Id.* The report further notes that ''[t]here is no extruded disc herniation identified at any level'' and that ''[t]here is no central canal or neural foraminal canal stenosis see.'' *Id.*

[12] In the progress note, Respondent noted that each straight leg lift was ''unremarkable.'' GX 22, at 1. He also wrote that he found moderate tenderness in the paravertebral muscles and muscle

stomach and asking him whether this movement ''bother[ed]'' him, with Lawson saying ''um, a bit''; followed by Respondent palpating Lawson in several areas and asking ''[r]ight in here,'' with Lawson answering ''[r]ight in there''; upon which Respondent concluded that Lawson had muscle spasms which he asserted were caused by Lawson's caffeine consumption. *See generally* RX G, Disc N–13; *see also* GX 23, at 10–11.[13]

Respondent then told Lawson that he needed to do back exercises (although Liberty was out of back-stretching sheets) and asked if he had ever taken anti-inflammatories such as Naproxen or Motrin. *Id.* at 11. Lawson replied that he had gotten Naproxen ''along with the other medicines.'' *Id.* Respondent then asked Lawson if he had ever taken Flexeril; Lawson replied that he believed he did. *Id.* Respondent told Lawson that it was a muscle relaxer and asked how it worked for him; Lawson replied that he ''really couldn't say.'' *Id.* at 11–12. Respondent then asked Lawson if ''the Soma work[ed] better for you; Lawson said ''yeah.'' *Id.* at 12.

Respondent then asked whether the Percocet had helped him; Lawson replied that ''it didn't seem like it was doing anything . . . it just didn't touch.'' *Id.* Respondent then said he was going to try Lawson on ''the oxycodone, the 15's . . . maybe four times a day'' and ''we'll see how well that works with you''; Lawson said ''all right.'' *Id.* Respondent then stated that he thought that ''a lot of the problems we're seeing is just these tight muscles'' and ''you got some pain in the lower back, where you showed the disc problem, but I think a lot of it's just the muscle spasm.'' *Id.* Continuing, Respondent explained that ''then we're talking about stretching the muscles, take the muscle relaxer, and then the anti-inflammatory, something for pain, then stretching those muscles. But if you . . . don't decrease your caffeine, they're going to stay tight. And they're going to continue to bother your body.'' *Id.* Respondent reiterated his earlier advice on fluid intake, provided Lawson with prescriptions for 120 oxycodone 15mg and 30 Soma 350mg, (as well as Naproxen), told him he would see him in a month, and the visit ended. *Id.;* GX 22, at 2.

On September 2, 2011, TFO Lawson returned to Liberty. GX 22, at 21; GX 24. Prior to seeing Respondent, Lawson completed a form entitled ''Patient Comfort Assessment Guide,'' on which he identified his pain as being in his ''lower back'' and circled that it was ''aching,'' ''sharp'' and ''continuous.'' GX 22, at 23. He also rated his ''worst'' pain in the last month as a ''9,'' his ''least'' pain as a ''6,'' his ''average'' pain as a ''7,'' and his pain ''right now'' as an ''8.'' *Id.* He also noted that ''medication'' made his pain better, but then indicated that oxycodone 15 provided ''No Relief.'' *Id.* at 23–24. Lawson's visit with Respondent lasted under six minutes, with the physical exam lasting approximately fifteen seconds. *See generally* RXG, Disc N–34.

Upon meeting, Respondent and Lawson exchanged pleasantries, and Respondent asked Lawson how the medicine was working for him. GX 24, at 1–2. Lawson replied: ''Well, the clinic I was going to before—I was taking 30 milligram and the 15's aren't as affective [sic] as the 30's were.'' *Id.* at 2. Respondent then asked Lawson to rate his pain on a one to ten scale; Lawson replied: ''it has gotten worse than last time. It was—it's about an eight or a nine.'' *Id.* Respondent said ''okay'' and asked: ''and with the 30's you were—where were you running?'' *Id.* Lawson then stated that ''on the medicine,'' he was ''[u]nder five.'' *Id.*

Respondent replied: ''Okay. So we need you under five,'' and asked if Lawson was ''taking the anti-inflammatories?'' *Id.* Lawson asked ''is that what the Naproxen is,'' and after Respondent confirmed this, Lawson said: ''Yeah. You gave me that.'' *Id.* Respondent then asked, ''[w]hat about those Mountain Dews?''; Lawson answered that it was ''harder to give up'' caffeine than smoking, but added that he had been ''drinking more water though.'' *Id.* After Lawson promised to do better, Respondent asked how many Mountain Dews he was drinking a day; Lawson answered: ''maybe three. Is that still too much?'' *Id.* at 3. Respondent said it was ''too much'' and that if Lawson would ''give up the Mountain Dews, [he] probably wouldn't have that much pain now'' and that he needed him ''on like one Mountain Dew a day.'' *Id.*

Respondent then asked Lawson if he was ''taking the 30's three times a day before?''; Lawson answered ''correct.'' *Id.* Respondent then asked Lawson to lean forward in his chair, palpated his back, and noted that ''you've got all these muscles spasms here'' and ''[w]ith that caffeine they're not going anywhere.'' *Id.* at 3–4. Respondent and Lawson engaged in further discussion of the latter's caffeine consumption, followed by a discussion of Lawson's fortuitousness in arriving at the clinic before it closed for the weekend. *Id.* at 4–5.

Respondent provided Lawson with prescriptions for 90 oxycodone 30mg, 30 Soma 350mg, and Naproxen. *Id.* at 5*;* GX 22, at 22. The visit then ended. GX 24, at 5.[14]

Regarding the visits, TFO Lawson testified that at no time did Respondent ask why he traveled from Thomaston to Norcross, a distance of 84 miles (GX 40, at 3), in order to receive treatment. Tr. 91–92. He also testified that Respondent never asked the names of his prior treating physicians, and although he did require Lawson to produce a urine sample, he never discussed the results of the sample, even though Lawson testified that to his knowledge he had no drugs in his system at the time this sample was taken. *Id.* at 92. TFO Lawson added that at the start of the initial office visit at Liberty, he told Del Percio that he was currently taking Endocet, a drug combining oxycodone and acetaminophen. *Id.* at 93. While Lawson told Respondent he had also been treated at a Veterans Administration hospital and at a clinic in Cartersville, to the best of his knowledge Respondent never attempted to confirm any of these statements. *Id.* at 94–96.

Respondent testified that when TFO Lawson reported his medical history, the latter told him that he was using an existing prescription for oxycodone 30 mg, which Respondent noted on the progress note. Tr. 323; GX 22, at 1. However, the recording and the transcript establish that Lawson said that the pain clinic he had previously gone to had been shut down two months earlier and that he had since gone to an urgent care center from which he received only Percocet. GX 23, at 1, 8; RX G, Disc N–13.

Respondent further testified that he would normally take steps to confirm a prior prescription, but acknowledged that he did not do so in this case and offered no explanation for failing to do so. Tr. 325. While Respondent also

spasms in both Lawson's thoracic and lumbar regions. *Id.*

[13] Regarding the physical examination, Respondent testified that the deep tendon reflex he observed in performing the patellar examination was normal and the leg lifts were unremarkable for both legs, suggesting that there was no nerve impingement in the area of Lawson's lumbar spine. Tr. 321. According to Respondent, the MRI presented by Officer Lawson ''was abnormal,'' and there was ''moderate tenderness of [the] paravertebral muscles . . . with increased muscle tone.'' *Id.*

[14] At the hearing, Respondent contended that various portions of the transcripts were inconsistent with the recordings. See Tr. 314–16. The ALJ carefully reviewed the recordings in light of Respondent's testimony and found that the transcripts were ''substantially accurate reports of what the parties said during these visits.'' R.D. at 8–9. The staff of this Office has also watched the videos and agrees with the ALJ's conclusion that the transcriptions are substantially accurate and notes that any errors are not material.

testified that the clinic Lawson identified as his prior treating source had closed, and then asserted that this was why he would not be able to obtain records from it, he gave no explanation for why he could not obtain the same information by contacting Lawson's pharmacy. *Id.* at 325–326. Nor did he explain why he did not contact the urgent care clinic which Lawson claimed he had recently gone to. *Id.*

The Visit of TFO Manning

On or about October 24, 2011, a fourth TFO also went to Liberty in an attempt to see Respondent. According to the video recording, the TFO did not have an MRI report and instead provided Del Percio with a letter from a doctor. *See* RX G, Disc N–51. On reviewing the letter, Del Percio observed that ''if you read his comments there's nothing on there. This is like his examination. Where is the MRI report? . . . if you read his comments, there's nothing there. This is his review'' [and it says there] is ''no evidence of lumbar disk herniation, no nothing, MRI was unremarkable.'' *Id.* Del Percio then reiterated that he needed an MRI report and not the films because the doctor's letter did not show him anything and told the TFO to have the report faxed. *Id.*

A short while later, the TFO placed a phone call to Del Percio, in which he stated that he was going to New York the next day and that he hoped to get his prescription filled. *Id.* Del Percio explained that he could not use the letter the TFO had provided and that ''the doctor would laugh at me if I tried to hand that'' to him. *Id.* The TFO then told the Del Percio if he could get in to see Respondent, he would ''get another one while'' he was in New York and that he would ''take care of'' Del Percio. *Id.* Del Percio replied that ''[i]t's not about that man, we cannot do that. We cannot risk anything like that . . . the Dr. is not going to risk his license. He's just not going to [ ] He can't see a patient without one.'' *Id.* After the TFO again promised that he would ''take care'' of Del Percio, the latter stated that ''he couldn't do it'' and ''that he had to have something to show because otherwise any person could walk in off the street and say Oh hey, I got pain.'' *Id.* The TFO then stated that there were a lot places that do that, to which Del Percio replied that they were shut down. *Id.*

Regarding TFO Manning's attempt to see him, Respondent testified that ''there's only one agent that really came into the office for no legitimate medical reason'' for a prescription. Tr. 292–93. Continuing, Respondent testified that ''[i]f you come in and you complain of pain, you have a positive MRI, you have findings on your exam, it suggests that your pain is real and your MRI is real. Whether you are a good actor or a bad actor, that suggestion is still there.'' *Id.* at 293–94.

The Expert Testimony

Both the Government and Respondent elicited testimony from an expert witness, the Government calling Thomas E. Hurd, M.D., and Respondent calling Carol Anastasia Warfield, M.D. GX 37; RX F2. Dr. Hurd holds a doctor of medicine degree from Northwestern University Medical School, held a fellowship in critical care medicine at the Department of Anesthesia, University of Florida, and is a diplomate of the American Board of Anesthesiology, the American Board of Pain Medicine, and the American Board of Interventional Pain Physicians. GX 37, at 1; Tr. 434. He further testified that in 2005, he did a Fellowship in Interventional Pain Practice and is certified by the World Institute of Pain. Tr. 434.

Dr. Hurd is licensed in four States, including Georgia, and has been president of Pain Solutions Treatment Centers, a multi-clinic interventional pain practice located in Georgia. GX 37, at 1–2. He has testified as an expert in pain management and chronic regional pain syndrome in other proceedings. Tr. 440. Dr. Hurd further testified that he currently practices only interventional pain medicine and that fifty to seventy percent of his practice involves treating chronic pain patients. *Id.* at 449.

Dr. Warfield holds a Doctor of Medicine degree from Tufts University Medical School, did a fellowship in anesthesia, and is a diplomate of the American Board of Anesthesiology and a Fellow of the American Board of Pain Medicine. RX F2, at 1. Between 1980 and 1986, she was an Instructor in Anesthesia at Harvard Medical School, after which she became a Professor of Anesthesia at Harvard Medical School. *Id.* at 2. Between 1980 and 2000, she was the Director of the Pain Management Center, at Beth Israel Hospital in Boston, Mass., and between 2000 and 2007, she was the Chairman, Department of Anesthesia, Critical Care and Pain Medicine. *Id.* She has also served on the editorial boards of various professional journals. *Id.* at 6.

Dr. Hurd testified that he had reviewed the Georgia statutes governing controlled substance prescriptions, the Georgia Board of Medical Examiners' regulation defining unprofessional conduct,[15] the Board's guidelines for using controlled substances to treat pain, and the Board's ''recommendations and guidelines'' for identifying pill mills and drug-seeking patients. Tr. 435–36. Dr. Hurd testified that at the initial visit, the patient's history must be obtained from both the patient orally and by obtaining documentation from other sources who treated the patient, after which a physical exam is performed based on the history to arrive at a preliminary diagnosis and a treatment plan is then begun. *Id.* at 441. While Dr. Hurd acknowledged the role of opioids in giving pain relief, he further explained that it ''is incumbent upon the physician to go ahead and engage in other more conservative measures and make sure those have been taken out, such as physical therapy, maybe injection therapy, [and] different kinds of medication modalities.'' *Id.* at 442.

Asked to describe what information he needed to establish a diagnosis of chronic pain, Dr. Hurd stated that he would first perform a physical examination. *Id.* at 450. Second, he would want to see if the patient had any records from other physicians because he did not ''want to repeat failed treatments,'' and if the patient claimed he was on opioids, he would ''want to know that another physician has treated them already'' so that he would not be ''giving the patient a medicine that they're not taking.'' *Id.* at 450–51. Later, Dr. Hurd explained that ''if a patient is telling you that they took a bunch of medications for legitimate reasons, you'd like to see [that physician's] reasoning, because otherwise, you're basing your entire treatment plan [on] the patient' statement, and . . . not everybody always tells the truth.'' *Id.* at 468–69.

Dr. Hurd then added that ''almost every patient within the first two visits is going to have an MRI.'' *Id.* at 451. Dr. Hurd explained, however, that half of the patients whose MRIs show an abnormality do not ''have any pain.'' *Id.* Dr. Hurd then testified that an MRI alone ''is not sufficient'' to form a diagnosis of chronic pain and the MRI's findings must be correlated to the

[15] Dr. Hurd specifically identified that he had reviewed the provisions defining ''unprofessional conduct'' to include ''failing to maintain appropriate patient records whenever'' controlled substances are prescribed, ''failing to use such means as history, physical examination, laboratory, or radiographic studies, when applicable, to diagnose a medical problem,'' and ''failing to use medication and other modalities based on generally accepted and approved indications, with proper precautions to avoid adverse physical reactions, habituation, or addiction.'' Tr. 438–39 (discussing Ga. Comp. R. & Regs. R. 3603.02(5), (14), & (15)).

patient's pain complaint ''by doing a physical exam . . . that's usually a neurological physical exam,'' and that during the exam, the patient's motor function, sensory function and reflexes are checked. Tr. 452; *see also id.* at 484–86 (discussing use of sensory testing to correlate MRI findings with patient's pain complaint and how different nerve roots correspond to various areas of the body). Dr. Hurd also discussed the importance of testing the strength of a patient's muscles. *Id.* at 484.

Dr. Hurd testified that ''[t]here are several classes of pain medication,'' which vary from lower-risk drugs which include anti-inflammatories, anti-depressants, and ''nerve medications,'' to higher-risk drugs including opioids and benzodiazepines. *Id.* at 453–54. He also testified that ''[t]here are many'' non-drug therapies for chronic pain, including physical therapy, aqua therapy, stretching or exercise programs, trigger point injections, and spinal injections. *Id.* at 455. When then asked by the Government whether, aside from an emergency or acute situation, there was any situation in which he would prescribe opioids at a patient's first visit without having obtained the patient's records from his previous treating physician, Dr. Hurd testified that if he

> judge[d] their pain to be severe enough that I would think they needed some help, if I could find on physical exam, their history that they were clearly weak or impaired, I would consider using that as a modality. However, I would also consider using other drugs as a modality as well. Now—and the ones I just talked about: anti-inflammatory medications, antidepressant medications, et cetera.
> . . . I'll give you an example. Suppose somebody just had an acute fall. They saw me two weeks later. They were not getting better. Then I might consider a low dose of opioid therapy, in addition to the other things I've already mentioned.

Id. at 456. Later, Dr. Hurd testified that where he had determined that it was appropriate to treat a patient with opioids, he would not normally start a patient on oxycodone 30mg. *Id.* at 558. Rather, he would usually start a patient on a combination of oxycodone and Tylenol (acetaminophen), such as Percocet 5/325 or 7.5/325. *Id.*

Dr. Hurd then explained that he would ''absolutely try[ ] to seek prior treatment records of any other physician that's treated this patient'' and that while ''I don't want to say that a physician doesn't have latitude to ever use a narcotic . . . it would be a lower dose narcotic, if you thought that . . . there was some reason that the patient couldn't take or tolerate a different medication,'' such as an anti-inflammatory because of ''kidney problems.'' *Id.* at 457.

As for how he would address the situation where a patient's prior practice had closed and the patient's records were not available, Dr. Hurd testified that he would determine where the patient filled their prescriptions and obtain a pharmacy record. *Id.* at 458. Dr. Hurd noted, however, that under Georgia law, ''[e]very legitimate practice is required . . . to maintain records,'' and every physician who retires from practice is required to notify their patients and must keep patient records so that they can be retrieved. *Id.* at 458–59.

Next, Dr. Hurd testified as to the use of urine drug screens in monitoring pain patients. Dr. Hurd explained that the tests serve two purposes: (1) Determining if the patient has been taking the drugs that were prescribed to him, and (2) determining if the patient is taking illegal drugs. *Id.* at 459–60. He further testified that the use of these tests is ''imperative'' at a patient's first visit if a patient has already been on opioids or is asking for them, *id.* at 461; he also explained that if a patient tests negative for a prescribed medication, ''then that means they didn't take the medicine'' and ''that usually means [they] don't need it.'' *Id.* at 462.[16]

Regarding the large number of out-of-state patients who obtained drugs from Respondent, Dr. Hurd testified that this ''just seems unusual and unwarranted.'' *Id.* at 513. While not denying that patients might travel out of state to see a specialist, Dr. Hurd observed that:

> [t]here is nothing about the ultimate prescription . . . of 30 milligrams of oxycodone several times a day, repeated over and over again, in case after case that is anything unique, except perhaps in the willingness of the physician to prescribe it. So . . . there's no reason for somebody to pass 120 pain doctors on the road from Tennessee to Georgia to select the one who will write that medicine, except for a non-legitimate purpose.

Id.

Dr. Hurd also testified that in his chart review, he noted that ''over and over again,'' the patients were given an order from Liberty for an MRI ''without a previous exam.'' *Id.* at 514. Dr. Hurd explained that ''[t]here is no reason to order an MRI . . . in the absence of an emergency, without examining a patient.'' *Id.* While Dr. Hurd acknowledged that he ''get[s] patients all the time with MRIs . . . they've been ordered by a referring physician.'' *Id.* at 514–15.

Dr. Warfield took issue with much of Dr. Hurd's testimony. She testified that she had reviewed the reports of the investigation, the videos of the undercover visits, Dr. Hurd's report, and a number of patient files. *Id.* at 570. She disputed Dr. Hurd's testimony regarding the use of urine drug screens, explaining that ''there are lots of pain centers that don't use a lot of urine drug testing, because the people who want to obviate the urine drug test know how to do it. . . . So many folks feel that they're not particularly useful.'' *Id.* at 573. She also testified that while ''Dr. Hurd was saying . . . that this is the way he does it . . . I've been on many . . . national boards across the country. This isn't the way everybody does it, and by no means does everybody have to do it the way he does it.'' *Id.* at 573–74.

Dr. Warfield also took issue with Dr. Hurd's testimony regarding the need to obtain a patient's medical records. Tr. 590–91. She testified: ''[w]e don't do that in our practice. I think it's a rare medical practice that does that.'' *Id.* at 591. Dr. Warfield then testified that:

> [t]ypically . . . when you go to a physician, you walk in the door without any medical records. You see the physician. They ask you questions. You tell them about your medical history, and they take what you say as the truth. There has to be a certain amount of trust between the patient and the physician, so if the patient says to me, I had back surgery in 1995, and they removed my L5 disc, I believe the patient. I don't say . . . I'm going to need the medical records from that hospital where you say you had that surgery.

Id. at 591. She then asserted that ''[m]ost physicians do not ask for old medical records.'' *Id.* at 591–92.

The ALJ then asked Dr. Warfield what verification process she recommended her students use when a patient presents with no records, but has an MRI showing some degenerative disc disease or other disease impacting the spine, and tells the student that he has an existing prescription for oxycodone. *Id.* at 592. Dr. Warfield answered: ''what we teach our residents is if a patient

[16] Dr. Hurd also testified regarding the Georgia's Board January 2011 Newsletter (GX 39), which contained a two page discussion of the characteristics of ''pill mills,'' or illegitimate pain management practices, as well as various ''red flags'' associated with drug-seeking patients. Tr. 463–69. Of relevance here, the Newsletter identified the following red-flags: ''[t]he patient is from another state,'' ''[t]he patient requests a specific drug,'' ''[t]he patient states that an alternative drug does not work,'' ''[t]he patient states that their[sic] previous physician closed their practice,'' ''[p]rior treatment records cannot be obtained,'' ''[t]he patient presents to an appointment with an MRI,'' ''[t]he patient(s) carpool,'' ''[t]he patient's pain level remains the same,'' ''[t]he patient is non-compliant with the physician's treatment plan.'' GX 39, at 7.

The Newsletter also made a variety of suggestions to prescribers, including that they ''[r]equire patients to submit treatment records from previous providers,'' and verify the authenticity of MRIs and prior treatment records. *Id.*

comes in, you do a history and you do a physical exam, and you make up your own mind as to what the diagnosis is and what the treatment is for that particular diagnosis.'' *Id.* at 593. While Dr. Warfield testified that there are a variety of situations which would prompt further investigation of a patient's story (*i.e.,* slurred speech, being very sleepy, changing their story, erratic behavior, shaking hands, track marks on physical exam, *id.* at 595), she then explained:

> But I think a patient who comes in and tells me they have pain, and their pain is consistent with what I know from my experience is a real medical condition—in other words, someone comes in and says, you know, I was in an accident; I hurt my right lower back, and I subsequently have pain going down my leg, and it goes into my toes, and I know that's consistent with a real medical entity, and I look at their MRI and they have findings that are consistent with that, and their physical examination is consistent with that, I don't go and get old medical records or further verify what they have.

Id. at 595–96.[17] *See also id.* at 628 (Dr. Warfield's testimony: ''occasionally there are patients who it's very obvious that they don't need the drug. Their physical exam is inconsistent with their MRI.'').

The ALJ then asked Dr. Warfield whether ''she would expect a Georgia doctor to be mindful'' of the Guidelines published in the Georgia's Board January 2011 newsletter ''when evaluating patients who present [with] chronic pain?'' *Id.* at 597. She answered:

> Yes. I mean, I would expect the physician to be mindful of it, but I would expect a physician to individually decide which of those is appropriate for their particular patient and which are not. I don't see guidelines as being laws. They're—you know, certainly everybody should have a history; certainly a physical examination should be done. And, you, I think the way those things are done and how they're documented in the record and how extensive a physical examination is and such is really up to the individual physician to decide for an individual patient.

Id. Dr. Warfield then asserted that while she gives lectures on opiate prescribing ''around the country,'' the guidelines have not been well publicized and most physicians ''don't even know they exist.'' *Id.* at 598. And on follow-up questioning by the ALJ, Dr. Warfield agreed that physicians ''should make themselves familiar with those guidelines'' but then maintained that ''most reasonable physicians in the same situation don't know about those state guidelines.'' *Id.* at 599–600.[18]

Dr. Warfield further asserted that there are ''no national guidelines'' and ''no standards in terms of exactly how one needs to treat a particular patient with pain when dealing with opiates,'' and that she had ''seen time and again with these kind of cases'' that experts testify as to the ''best possible practice, that in the perfect world, this is the way we should practice when we deal with these opiate patients.'' *Id.* at 621. While Dr. Warfield testified that she ''would agree with that,'' she maintained that people do not practice that way. *Id.* She then explained:

> And unfortunately, I see a lot of experts who come forward and say that, you know, this is he [sic] best possible practice, and this is the way I do it. Therefore, anybody who doesn't do this is practicing below the standard of care. And I think that's what we're really talking about here. We're talking about the fact that . . . we all agree that there probably is a best possible practice out there, but the fact that someone is not practicing the best possible practice or not practicing the way a particular individual thinks is the law or standard doesn't meant that they're not practicing legitimate medicine.

Id. at 622.

On questioning by Respondent, Dr. Warfield then testified that she had reviewed ''in detail'' the charts for patients she identified by the initials of V.S., L.C., T.W., C.P., A.C., L.L., S.G., J.L., A.B., H.W., and J.B. and that she did not ''see . . . any evidence . . . that this was not a legitimate medical practice or that these drugs were not prescribed . . . in the usual course of practice or were not appropriate.'' *Id.* at 623–24. While these initials apparently correspond to the patients other than the undercover officers whose medical records were reviewed by Dr. Hurd,[19] Respondent also introduced a letter which Dr. Warfield had written on his behalf, apparently in connection with a criminal proceeding. RX F2. Therein, Dr. Warfield noted that she had reviewed various items of evidence related to the visits of the three undercover officers. *Id.* at 1. She then wrote:

> I do not see any evidence that the medications prescribed by [Respondent] were not prescribed in the usual course of care in a legitimate medical practice. Histories and physical examinations were conducted, a diagnosis was made and a plan was formulated. The patients underwent urine drug screens and follow-up visits with a review of the drug effects. And while I agree that the examinations were brief, I do not believe that this in any way indicated that the practice was not legitimate.

Id. at 3.

Dr. Warfield further suggested that Respondent had been deceived by the undercover officers who, in her view, ''were clearly very good actors'' who ''knew what to say and how to argue their case for needing pain medicine.'' *Id.* at 4. She then suggested ''[t]here is no way any physician can ever be correct all the time about who is fooling them and who is not. They can only try to treat these patients in the best way they can without denying other patients the pain-relieving drugs they need and deserve.'' *Id.*

Finally, Dr. Warfield pointed to the two ''occasions when [Respondent] was specifically offered cash for a prescriptions,'' noting that ''he quickly and adamantly refuse[d].'' *Id.* Dr. Warfield maintained that ''[t]his clearly demonstrates that this is not a cash for drugs business but rather a legitimate medical practice intent on providing relief to patients with chronic pain.'' *Id.* Dr. Warfield then concluded that it was her belief that Respondent's ''treatment of these patients was part of a legitimate medical practice and that the drugs that were prescribed were done so in the course of usual medical practice.'' *Id.*

On questioning by the ALJ as to whether she would document a patient's attempt to bribe her to obtain

[17] *See also id.* at 594 (asserting that if a patient with high blood pressure came to see her and said she was on a particular medication, she doesn't ''do verification . . . we make our own mind up as to whether that's the appropriate drug . . . or should they be on a different drug or a different treatment''). *Id.*

[18] Asked by the ALJ what she would instruct her students to do if they were presented with an employment opportunity at a clinic which was ''run on a cash-only basis; where patients drive long distances, often from other states; and where all the patient MRIs come from the same imaging facility,'' Dr. Warfield testified that ''taking each of those individually, I don't think any of these things would make me tell my particular doctors to sway one or the other.'' Tr. 610–11. She then explained that ''none of those things are illegal per se,'' and that there are ''very outstanding, legitimate pain centers that take only cash'' because they don't want to deal with insurance companies. *Id.* at 611. As for patients travelling a long distance, she asserted that there are states where legitimate pain patients cannot get medication because ''doctors are just unwilling to prescribe these drugs'' and ''don't care what the patient has,'' ''[s]o there is some legitimacy to patients coming from other states to states where they can get these drugs.'' *Id.* at 611–12. As for the MRIs coming from the same place, Dr. Warfield testified that if ''you're in a small town, there may be one place where patients get their MRIs.'' *Id.* at 613.

When then asked what she would advise her students if all three of these issues were present, Dr. Warfield testified that ''if you're in a practice like that . . . you better make darn sure that you're treating your patients in an appropriate way, that you are . . . seeing your patients, treating them individually, doing histories, doing physical exams, doing, you know, an appropriate medical practice, is what I might tell them.'' Tr. 614–15.

[19] The initials of two of these individuals T.W. and J.B. correspond with those of Terrance Williams and Jessica Bernard, both of whom were eventually criminally charged and pled guilty to violations of 21 U.S.C. 846 and 841(b)(1)(C). *See* GXs 10 & 12.

additional drugs, Dr. Warfield offered a lengthy and evasive answer. She stated:

> I may or may not make a note of that. . . . I would certainly . . . you know, if I'm the only doctor seeing that patient, I may or may not write that down. What I would do is I would keep it in mind. . . . [Y]ou're asking me what I would say to a doctor in training. I would say, you know. This is . . . someone who has some suspicious activity here, so you have to keep this in mind when you—you know, when you subsequently see the patient.

Tr. 583–84. After then explaining that the appropriate thing is ''to not take the bribe and know that this patient . . . possibly has been involved in some suspicious activity,'' Dr. Warfield contended that just because the patient ''might be involved in some suspicious act or asking you to do something that isn't legal doesn't mean that the person does not have pain.'' *Id.* at 584. Continuing with her answer, Dr. Warfield testified:

> I mean, you can believe that patient, that they still have pain and that they were honestly trying to get medication for a friend of theirs. You could discharge that patient. . . . You could send that patient off for a consultation with someone, or you could continue to treat the patient. I think all of those, depending on the situation, are reasonable at one time or another.
>
> I don't think there are any guidelines or anything that says that if a patient comes in and offers you money to get a prescription for their sister and you refuse to do that, that you should automatically discharge that patient.

Id. at 585. When asked a further time by the ALJ what a physician should note in the patient's record regarding an ''offer to bribe,'' Dr. Warfield asserted:

> Again, I don't think there are any guidelines that say you should write that . . . in the record. I mean, would I argue if somebody wrote it in the record? No. Would I think that if somebody didn't write it in the record, they didn't have a legitimate medical practice? No. . . .
>
> We don't write down everything that the patient tells us and says to us every time we see them in an office, and the fact that somebody doesn't write down something that the patient says . . . I don't think indicates that it's below the standard of care or not a legitimate medical practice. It's just in a busy practice, one can never, you know, write down everything the patient tells you. I think that if that's a patient you're going to be seeing again and again, that you keep that in mind when you're seeing the patient.

Id. at 586–87. However, unexplained by Dr. Warfield is how a doctor in a busy practice, such as Respondent's which had nearly 900 patients, would be able to remember which of his patients had attempted to buy extra drugs if he only kept a mental note of the incidents.

Dr. Hurd came to the exact opposite conclusion as to the lawfulness of the controlled substances prescriptions Respondent issued to both the undercover officers and multiple other patients whose charts he reviewed, including those persons who pled guilty to conspiring to unlawfully distribute controlled substances. In both his testimony and report, Dr. Hurd identified multiple deficiencies in the manner in which Respondent made prescribing decisions.

For example, in his report, Dr. Hurd observed that Respondent performed ''inappropriate or minimal exams'' and that ''[i]n case after case, patients presented with complaints suggestive of spine disease with low back pain and leg pain, which would suggest . . . disc disease and potential neurologic comprise.'' GX 35, at 4. He also noted that Respondent ''used borderline [MRI] results in many cases to support the need for narcotic medication'' and that ''[i]n other cases, signific[an]t findings were noted but no appropriate physical exam was performed to see if this was a danger or risk to the patient.'' *Id.* Dr. Hurd then explained that:

> A diligent and responsible approach to patients like this is to do a direct and appropriate neurologic examination, in this case, to the low back and lower extremities. An appropriate focused exam would include testing of muscle strength for each nerve root in the lumbar spine, testing reflexes at the patella and Achilles tendons[,] as well as conducting a sensory exam which would at minimum consist of lightly touching or scratching the patient's skin either with or without clothing to ascertain if there were sensory abnormalities such as decreased sensation, numbness, increased sensations or tingling when the skin is touched. It is not medically necessary to do a complete comprehensive exam at every visit depending on the period between visits but it certainly should be done at least once during a patient's tenure with the physician.

Id. Continuing, Dr. Hurd observed that:

> In virtually every case, including the ones with video surveillance, [Respondent] only documented an attempt at testing reflexes at the patella and a gross spontaneous motor exam when he asked the patient to lift their legs. This is not specific to each nerve root in the lumbar spine as would be expected in a comprehensive exam. No patient underwent a sensory exam that was either documented in the chart or demonstrated in video recordings that I reviewed.

Id.

Dr. Hurd then specifically addressed Respondent's treatment of each of the undercover officers. With respect to Officer Lawson, Dr. Hurd observed that Lawson's MRI report ''demonstrated minor changes at L4–5 and L5–S1.'' *Id.* at 7. He explained that while Respondent told Lawson that ''the discs were pressing on his spinal cord[,] [t]hey were not . . . as the spinal cord ends several levels above L4–5 in the spine.'' *Id.* Dr. Hurd then noted that while Lawson told Respondent that he had been in a Humvee accident, he asked no further questions about the accident. *Id.* Moreover, while Respondent asked Lawson if he had numbness or tingling in his legs, Lawson denied having either symptom. *Id.*

Dr. Hurd characterized Respondent's physical exam on Lawson as ''cursory'' as it was limited to three tests: (1) Testing Lawson's patellar reflexes with a hammer, (2) having Lawson lie on his back on the exam table and lift each leg without Respondent resisting the movements to determine Lawson's muscle strength, and (3) having Lawson lie in the prone position and palpating his back muscles. *Id.; see also* Tr. 491–92. Dr. Hurd then identified four important tests that were not performed, including: (1) Testing Lawson's leg strength against resistance to ''either rule out or . . . in a more serious problem''; (2) performing sensory testing of the skin dermatomes of Lawson's legs to determine whether any abnormal MRI finding was either ''minor'' or ''something that was clinically significant''; (3) testing Lawson's Achilles reflexes; and 4) testing the range of motion of Lawson's spine. GX 35, at 7.

Dr. Hurd also explained that ''[t]he performance of a routine neurological exam'' is warranted ''on almost every patient's initial visit'' even if the patient did not present with ''a strictly neurologic complaint.'' *Id.* Dr. Hurd also explained that Respondent had at one point been board certified in internal medicine and would have known how to perform a neurologic exam. *Id.*

Regarding the visit, Dr. Hurd further observed that Respondent did not discuss with Lawson his ''activities of daily living,'' or ''any restrictions to be placed upon him during work or leisure.'' *Id.* at 7–8. Dr. Hurd also faulted Respondent for failing to discuss the risks and benefits of using controlled substances. *Id.* at 8. While Dr. Hurd found that Respondent did document in the medical record that Lawson had told him that neither Lortab nor Percocet had helped him, Dr. Hurd observed that Respondent ''offered no other rationale for the narcotic prescription'' which included 120 oxycodone 15mg for the month. *Id.*

With respect to Lawson's second visit, Dr. Hurd noted that while Lawson said he had better pain relief on the ''oxy 30s,'' Respondent failed to perform a physical exam. *Id.* He also noted that

Respondent increased the prescription to 90 oxycodone 30mg. *Id.*

Dr. Hurd noted that Lawson had been referred for an MRI before he was seen by Respondent. *Id.* Dr. Hurd stated that it was ''unclear'' why this ''would occur'' as apparently there was no medical indication for ordering an MRI (Respondent having yet to see Lawson) and there was ''no emergency.'' *Id.*

Applying the Georgia Board's Guidelines on using controlled substances to treat pain, Dr. Hurd opined that Respondent did not comply with step one because he did not perform an appropriate history and physical. GX 35, at 8. He also noted that Respondent failed to comply with other provisions of the Guidelines by failing to refer Lawson to a specialist; failing to document his rationale for prescribing opiates; failing to review Lawson's prescription record and obtain his medical records; and failing to discuss the risks and benefits of narcotics. *Id.; see also* Tr. 494 (testimony of Dr. Hurd that ''the first thing you need to do is . . . see if you can get any notes from the practice. Failing that, certainly you'd want to get some pharmacy records that showed what the patient was given.'').

In his testimony, Dr. Hurd also explained that it was a ''red flag'' that Lawson had told Respondent that his previous physician's practice had been shut down. Tr. 494. Dr. Hurd further noted that Respondent did not take appropriate steps to verify Lawson's claims. *Id.*

Dr. Hurd thus concluded that the oxycodone prescriptions Respondent issued TFO Lawson were not for a legitimate medical purpose. *Id.* at 492.

Regarding the visits of TFO Vickery, Dr. Hurd explained that his MRI report stated that he had ''a ruptured disc that shoots out to the side of the spinal canal and pinches a nerve as it goes from the spine to the leg'' and that ''[t]his would be expected to cause pain in the left thigh and potentially some weakness'' either extending or raising the leg. GX 35, at 9. Dr. Hurd observed that ''[t]his would normally be tested for by having the patient either sit or lay down and have them extend (straighten) their leg while the examiner has [his] hand on the patient's ankle to see if [the patient] ha[s] enough strength to straighten their leg against some resistance.'' *Id.* Dr. Hurd also explained that ''[a]nother test that would be performed would be a sensory exam which would involve touching, scratching or using a sharp pin to poke the skin to see if there was any numbness or increased sensitivity.'' *Id.* According to Dr. Hurd, a physician would use these tests to determine whether a herniated disc has resulted in significant nerve damage. *Id.*

Dr. Hurd observed that Respondent's physical of TFO Vickery was limited to checking his patellar reflexes, having him lay on his back and raise his legs, followed by having Vickery lay on his stomach and palpating his back. *Id.* While Dr. Hurd noted that it ''was appropriate'' to test Vickery's patellar reflexes, he did not do an appropriate exam to test Vickery's leg strength. *Id.* Dr. Hurd also explained that ''[t]here was no examination of the patient's peripheral nerves or his muscular strength to determine if the MRI finding might be valid.'' *Id.* Dr. Hurd then opined that Respondent ''prescribed without . . . a legitimate medical indication'' both 90 oxycodone 30mg and 30 Xanax 1mg. *Id.; see also* Tr. 539–40 (Dr. Hurd's testimony that the tests Respondent performed during the physical exam ''are gross tests that don't discriminate between nerve levels''); *id.* at 549 (Explaining that ''usually a straight leg raise'' is performed by the doctor picking up the patient's leg to see if the ''nerve back there is irritated, so it sends the pain down their leg. Having [the patient] pick it up by [himself] does not give you that same thing, because they can actively guard when they pick it up.'').

With respect to Vickery's second visit, Dr. Hurd noted that ''[n]o significant exam was performed [and] yet [Respondent] prescribed'' 90 pills of Opana ER 40mg. GX 35, at 9. Dr. Hurd then observed that Opana ER is ''to be taken every 12 hours and is not known to be given legitimately [at] 90 per month'' as a prescription for sixty tablets ''would suffice for its correct dosing.'' *Id.* As found previously, the Opana prescriptions Respondent wrote called for the drug to be taken TID, or three times a day, and not twice per day. Dr. Hurd also observed that while Respondent again prescribed Xanax to Vickery, ''no discussion of the [TFO's] anxiety had taken place.'' *Id.*

In his testimony, Dr. Hurd further explained that ''[i]t is important and incumbent upon a physician to document that there is some evidence of anxiety, and [that] you've reached a medical diagnosis'' that ''justif[ies] the treatment.'' Tr. 495. Dr. Hurd then opined that the Xanax prescription was not issued for a legitimate medical purpose.[20] *Id.* And when asked if the opioid prescriptions that Respondent wrote at this visit were issued for a legitimate medical purpose, Dr. Hurd opined that ''[t]hey were not.'' *Id.* at 495–96.

The Government also asked Dr. Hurd about TFO's Vickery offer during this visit of additional cash for extra drugs. Tr. 497. While Dr. Hurd explained that ''it's good that [Respondent] did not accept money,'' TFO Vickery was ''absolutely telling'' Respondent that he was ''going to traffic in drugs.'' *Id.* at 498. Dr. Hurd then explained that a patient such as Vickery ''should not be in any legitimate practitioner's office.'' *Id.*

As for Vickery's third visit, in his report, Dr. Hurd observed that Respondent had documented in the progress note that the TFO was ''[h]aving more problems with anxiety,'' that he ''continued to [complain of] severe back pain,'' and that he was ''requesting additional pain meds.'' *Id.* at 9. Dr. Hurd again found that ''no significant physical exam was done,'' noting that there was ''[n]o motor testing, no sensory testing, and no testing of reflexes.'' *Id.* Dr. Hurd then noted that Respondent again prescribed Vickery 90 tablets of Opana ER 40mg, ''which was outside the regular prescribing parameters of this drug,'' and that he had also given Vickery 40 tablets of Percocet 10, as well as increased the Xanax prescription from 30 to 45 tablets. *Id.*

Regarding this visit, Dr. Hurd testified that TFO Vickery's attempt to purchase Xanax for a friend should have resulted in Respondent terminating the doctor-patient relationship. Tr. 499–500. He further explained ''that this is different than a patient . . . whom you suspect has addiction'' and should be referred to ''addiction treatment'' and not given ''more medicine.'' *Id.* at 500. Instead, it ''represented drug trafficking'' on Vickery's part. *Id.* Dr. Hurd then added that given Vickery's attempt ''to bribe'' him, it was not appropriate for Respondent ''to increase the medicine that the patient just asked for,'' *i.e.,* the Xanax. *Id.* at 501. Moreover, according to Dr. Hurd, this incident should have been documented in the patient record. *Id.* at 560. Yet it wasn't. *See* GX 27, at 26.

[20] On cross-examination, Respondent asked Dr. Hurd whether Vickery's ''yes'' answers to questions on an intake form regarding whether his pain made him ''irritable'' and ''angry'' suggested the presence of ''some anxiety.'' Tr. 534. Dr. Hurd answered that it ''[s]uggests there's anger and irritability present, not necessarily anxiety.'' *Id.* at 535. Respondent then asked Dr. Hurd whether Vickery's ''yes'' answer to ''[d]oes this pain interfere with sleep?'' suggested ''anxiety or a need for Xanax.'' *Id.* Dr. Hurd replied: ''not specifically. If your pain interferes with sleep, it may just indicate the need to relieve the pain, as opposed to taking away anxiety.'' *Id.* Of further note, on one of the intake forms, TFO Vickery provide a ''No'' answer to the question: ''does the pain give you feelings of anxiety?'' GX 27, at 24.

With respect to Vickery's fourth and final visit, Dr. Hurd noted that while Respondent changed his narcotic prescription from Opana 40mg to oxycodone 25mg and decreased the Xanax from 45 to 30 tablets, ''he added [30] Soma, a potent muscle relaxant, to be taken at bed time.'' *Id.* at 10. Thus, Dr. Hurd found that Respondent ''bumped up his sedative effect by giv[ing] him'' the Soma. *Id.*

In his testimony, Dr. Hurd further noted the discussion between Vickery and Respondent during which Vickery changed his story regarding his pain level and Respondent observed that he did not think that Vickery was ''that bad off'' and that his urine drug screen ''showed nothing in [his] system.'' Tr. 503. After explaining that Opana ER is an extended release medicine, which is supposed to last twelve hours between doses and that there is no reference in the literature to prescribing it three times a day, *Id.* at 503–4, Dr. Hurd also observed that Vickery was prescribed ''a ton of medicine'' and that he could not have run out of medicine ''without going through withdrawal,'' and yet there was ''no evidence this patient was in withdrawal.'' *Id.* at 504. Dr. Hurd thus concluded that ''similar to the previous patient,'' Respondent's ''care fell short according to the guidelines'' in that ''he did not perform an appropriate history and physical'' and ''did not do any physical exam of significance.'' GX 35, at 10. Dr. Hurd further faulted Respondent because ''he did not refer [TFO Vickery] to an outside specialist'' and ''did not obtain any old records.'' *Id.*

The Government also entered into evidence Dr. Hurd's findings based on his review of the patient charts of J.L., A.B., J.B., K.C., S.P., L.C., S.G., V.S., L.L., H.W., and T.W. *See* GX 35, at 12–13; GX 36a. While these findings were not the principal focus of the Government's case, Dr. Hurd's findings with respect to these patients provides, in some respects, a more complete picture of Respondent's prescribing practices than the undercover visits because several of the patients made an extensive number of visits to Liberty.

For example, A.B., who was from Greeneville, Tennessee, made twelve visits to Liberty. GX 36a. At her first visit, A.B. said that she had been in a ''severe'' motor vehicle accident two years earlier and that her current prescriptions were 210 oxycodone 30mg, 120 oxycodone 15 mg, and 30 Xanax .25mg. *Id.* at 1. A.B. obtained an MRI at Greater Georgia Imaging the same day as her initial visit, which Respondent noted as being abnormal in his physical exam note. *Id.* Respondent diagnosed A.B. has having thoracic spasm, lumbar radiculopathy, and four bulging discs, with three of them (L5–S1, L3–4, L2–3) ''involving'' their respective nerve root. Respondent prescribed 180 oxycodone 30mg to A.B. at this visit. *Id.*

However, according to Dr. Hurd, A.B.'s MRI report presented ''minimal findings'' and Respondent's physical exam did not note a ''neurologic abnormality.'' *Id.* at 2. Moreover, Respondent repeatedly provided A.B. with prescriptions for 180 oxycodone 30mg, although he did decrease the prescription twice (to 165 oxy 30mg and then to 180 oxy 20mg [21]) before he again prescribed 180 oxycodone 30mg at her eleventh monthly visit, when she reported her pain as a ''seven.'' *Id.*

However, Dr. Hurd observed that at this visit, ''[t]here was no change in her exam findings,'' and ''to this date,'' Respondent had not done ''a neurologic exam.'' *Id.* He further noted that ''[t]his is the 11th monthly visit in a row that this patient has been treated with large doses of oxycodone . . . with minimal findings on MRI'' and that A.B. had not been referred ''for spinal injections, spinal surgery consultation, physical therapy, acupuncture, psychological evaluations, or any second opinion.'' *Id.*

Regarding Respondent's physical exams of A.B., Dr. Hurd identified seven items which were not documented as having been performed. More specifically, Dr. Hurd observed that there was no documentation of: (1) ''an analysis of the patient's gait''; (2) an examination of the range of motion of A.B.'s lumbar spine; (3) a sensory examination of A.B.'s arms and legs; (4) strength testing of A.B.'s arms and legs; (5) which ''deep tendon reflexes were tested''; (6) a pupil examination to determine if narcosis existed; and 7) a mental status examination. *Id.* at 3. Dr. Hurd explained that ''all of these exam techniques are designed to determine the clinical significance of the MRI findings'' and ''is a standard of care in determining the cause of pain and dysfunction in the back and lower extremities.'' *Id.*

Also, notwithstanding that A.B. made twelve visits to Respondent between April 12, 2011 and March 14, 2012, Dr. Hurd found that neither ''old [medical] records'' nor ''pharmacy records were referenced in the chart.'' *Id.* at 2. Based on Respondent's failure to obtain A.B.'s records, his failure to perform adequate physical examinations, his failure to use any treatments other than medication, Dr. Hurd concluded that Respondent lacked a legitimate medical purpose when he prescribed to A.B. *Id.* at 3–4.

J.B., who was from Rogersville, Tennessee, made twelve visits to Liberty which began on March 3, 2011. GX 36b, at 1. She complained of severe lower back pain caused by motorcycle and motor vehicle accidents. *Id.* She too obtained an MRI at Greater Georgia Imaging on the morning of her initial visit. *Id.* She received 120 oxycodone 30mg at each visit. *Id.* at 2.

Here again, Dr. Hurd observed that Respondent did not review J.B.'s prior medical or pharmacy records (and there are no such records in her patient file, *see* GX 11), notwithstanding that at her initial visit, she wrote on one of the intake forms that her current medication included ''7–8 Roxycodone 30mg, 5–6 Roxycodone 15mg (breakthrough pain),'' and ''Xanax to sleep 2mg (2 day).'' GX 11, at 70; GX 36B, at 2. Moreover, Dr. Hurd found that there was no documentation that Respondent had performed the seven tests he identified as required by the standard of care in his review of A.B. GX 36B, at 2. He then observed that ''[t]he MRI and physical findings do not . . . warrant treatment with that level of narcotic'' and that the lack of exam findings with respect to these seven tests ''suggests that there is no correlation between the patient's MRI and her physical findings.'' *Id.* He also noted that Respondent did not offer conservative therapy to J.B. including physical therapy, trigger point injections, epidural injections or a surgical referral. *Id.* Dr. Hurd thus concluded that Respondent's prescribing to J.B. did not meet ''the standard of care for treating with opioids'' and that he lacked a legitimate medical purpose. *Id.*

L.L., who was from Kingsport, Tennessee, made sixteen visits between January 14, 2011 and April 11, 2012. GX 36h. At his initial visit, L.L., who worked as a horsebreaker, complained that he had been having severe back pain for three years following a work related incident but denied ''any numbness or tingling.'' *Id.* at 1. He also claimed that he had taken oxycodone 30mg, Dilaudid and Xanax 1mg. *Id.* L.L. presented an MRI, which had been done a year and a half earlier in Florida; the MRI found that he had a moderate size disc protrusion at L5–S1 with bulging of the annulus and bilateral nerve root effacement and a small disc protrusion at L4–5 with no effacement of the nerve root. *Id.* at 2. The MRI Report explicitly ''[r]ecommended correlation with the

[21] According to Dr. Hurd, A.B. had reported that her pain with medication was a ''three'' at the visit during which Respondent reduced her medication to 165 tablets of oxycodone 30mg, and she reported that her pain with medication was a ''two'' at the visit where he reduced her medication to 180 oxycodone 20mg. GX 36a, at 2.

clinical symptoms and neurologic exam to assess the significance of the above findings.'' *Id.*

Here again, Dr. Hurd found that Respondent did not document, with respect to any of the physical exams, the performance of any of the seven tests he previously identified (in discussing A.B.) as being part of the ''standard of care in determining the causation of pain and dysfunction in the back and lower extremities.'' *Id.* Yet Respondent prescribed 120 oxycodone 30mg (as well as 30 Xanax 1mg) which, at the next visit, he increased to 150 oxycodone 30mg (and 30 more Xanax 1mg), notwithstanding that the note for the second visit contained ''no further delineation of the physical exam to corroborate the MRI findings and there [was] no mention of'' an anxiety diagnosis (which was not listed until two months later). *Id.*

According to Dr. Hurd, L.L. requested more medication at his May 2011 visit, and Respondent increased his oxycodone prescription to 160 tablets, even though he again noted that ''[t]here was no more delineation of the physical exam to demonstrate a diagnosis consistent with the MRI.'' *Id.* at 3.

Dr. Hurd then found that at L.L.'s June 2011 visit, Respondent added a diagnosis of lumbar radiculopathy. *Id.* Dr. Hurd found, however, that Respondent had at no point ''done a neuromuscular exam to delineate the reason for'' this diagnosis. *Id.* He also noted that while at this visit, Respondent had decreased the amount of oxycodone 30mg by twenty pills, he then added a prescription for 60 Percocet 10/325, thus providing the same amount of oxycodone to L.L. *Id.* Dr. Hurd opined that there was ''no medical rationale for this prescribing.'' *Id.*

Dr. Hurd further found that Respondent maintained the same medication regimen through April 2012, even though L.L. continued to complain of pain at a level of 5 to 6 out of 10. *Id.* at 3. Respondent, however, never offered to refer L.L. for a spinal injection or a surgical consultation. *Id.* Nor did he ever offer to refer L.L. for ''more conservative'' treatment such as acupuncture or physical therapy. *Id.* at 3–4. Dr. Hurd also found that there was no evidence that Respondent had reviewed L.L.'s previous medical records. Based on his findings, Dr. Hurd found that Respondent's prescribing to L.L. did not meet ''the standard of care for treating with opioids'' and that he lacked a legitimate medical purpose. *Id.*

H.W., who was from Midway, Tennessee, made twenty-three visits to Liberty beginning on April 28, 2011. GX 36I. She reported a history which included three motor vehicle accidents, a fall, and a fractured pelvis. *Id.* at 1. She complained of ''severe lower back pain radiating down [her] right leg,'' as well as ''neck pain radiating down [her] right arm,'' and reported that she was currently on 180 oxycodone 30mg, 90 oxycodone 15mg, and 60 Xanax 2mg. *Id., see also* GX 13, at 13. She also provided an MRI, which was done by a facility in Florida fifteen months earlier and which listed the patient's date of birth as being ''4/12/78.'' GX 36I, at 2. However, H.W.'s driver's license lists her date of birth as ''11/26/88.'' *Id.*

Respondent performed a physical exam and documented that he found severe tenderness over H.W.'s cervical trapezius muscle, her lumbar paravertebral muscles, and her sacrum, and tenderness over her sciatica. *Id.* His physical exam findings also included ''DTR + 2,'' and an abnormal straight leg lift and cross straight leg lift. *Id.* Respondent diagnosed H.W. as having herniated discs at L5–S1and L4–5 and a bulging of the annulus fibrosis at L3–4 (each of which were listed as MRI findings), as well as having lumbar radiculopathy and cervical radiculitis. *Id.* at 1–2. He then prescribed 120 oxycodone 30mg and Xanax 1mg at this visit. *Id.* at 1.

Dr. Hurd again found that Respondent did not document having performed any of the seven tests (discussed above) at any of H.W.'s twenty-three visits. *Id.* at 2. While at her second visit, Respondent noted that he would consider performing a trigger point injection, at H.W.'s third visit, he documented that she ''was afraid'' to have one done but would reconsider at her next visit. *Id.* According to Dr. Hurd, a trigger point injection was never done on H.W. *Id.*

At this visit, Respondent prescribed 130 oxycodone 30mg and 45 Xanax 1mg to H.W. *Id.* Dr. Hurd found that Respondent ''continued to prescribe those same dosages and quantities at every visit that [he] reviewed.'' *Id.* He also observed that notwithstanding Respondent's ''diagnoses of lumbar radiculopathy[,] cervical radiculitis[,] and [a] labral tear left hip[,] no treatment other than medications was noted.'' *Id.*

Dr. Hurd found that there were no prior medical records or pharmacy records for H.W. *Id.* He explained that ''[i]n the absence of independent evidence . . . that she was prescribed and consumed [o]xycodone 30mg four to six times a day, [Respondent] [was] risking either an acute narcotic overdose, or, if not consumed by the patient, possible diversion.'' *Id.* at 3. He then observed that a positive urine drug screen ''may indicate the patient has consumed some narcotic, but it does not indicate the dosage or total quantity'' the patient has been prescribed or consumed. *Id.*

Noting that Respondent did not review H.W.'s prior medical records, and based on Respondent's failure to perform the seven tests listed above, Dr. Hurd opined ''that there [was] no correlation between the patient's MRI and his physical findings.'' *Id.* at 2–3. He also opined that ''[t]he MRI and physical findings [did] not . . . warrant treatment with that level of narcotic.'' *Id.* at 2. He thus concluded that ''the standard of care for treating [with] opioids has not been met.'' *Id.* He further concluded that the prescriptions lacked a legitimate medical purpose. *Id.* at 3.

V.S., a 48-year old female from Coral Springs, Florida, saw Respondent eleven times between January 25, 2011 and March 5, 2012. GX 36G, at 1–2. She reported having been ''in several bad car accidents'' and having ''recently . . . broken [her] right arm'' which apparently was in a cast.'' *Id.* at 1. She also complained of ''severe low back pain'' which made it ''very difficult for her to perform any activities that [cause] pain'' and reported that she had been taking oxycodone 30mg six times a day, Dilaudid 8mg for breakthrough pain, and Xanax 2mg, twice a day, ''for two years.'' *Id.*

V.S. presented an MRI, which had been done more than a year earlier, at a facility located in Boca Raton, Florida. *Id.* While the MRI report listed findings of three bulging discs, one of which (L5–S1) was causing narrowing of the right neuroforamen and another (L4–5) which causing encroachment of both neuroforamen, Dr. Hurd explained that this was a ''mild to moderately abnormal MRI.'' *Id.* at 1–2.

Notably, in the physical exam section of the progress note, Dr. Hurd found that Respondent documented only that he had palpated her paravertebral muscles in the area of V.S.'s lumbar spine (finding ''severe tenderness'') and that he had V.S. perform a straight leg lift (which was ''abnormal''). *Id.* at 1. Here again, Respondent did not perform any of the seven tests Dr. Hurd previously identified as necessary ''to determine the clinical significance of the MRI findings,'' which Dr. Hurd explained was ''a standard of care in determining the causation of pain and dysfunction in the back and lower extremities.'' *Id.* at 2–3.

Respondent nonetheless diagnosed V.S. as having chronic back pain (along with the three bulging discs). *Id.* at 1. Respondent prescribed to V.S. 180

tablets of oxycodone 30mg, 80 Dilaudid 8mg (one tablet every eight hours), and 60 Xanax 2mg (one tablet twice a day). *Id.*

At V.S.'s second visit, she again complained of ''severe'' back pain ''when not on medication'' and ''severe pain'' in her right arm which had screws in it. *Id.* at 2. She further reported that her pain was worse when she was not taking Xanax ''because of her anxiety.'' *Id.* Yet the only test Respondent documented as having performed was palpating V.S.'s paravertebral muscles in her lumbar region. *Id.* Respondent diagnosed V.S. as having a ''disc bulge L4–5 with neuroforaminal encroachment,'' and added a diagnosis of ''lumbar radiculopathy.'' *Id.* He issued her prescriptions for 180 oxycodone 30mg, 50 Dilaudid 8mg, 60 Xanax 2mg, and 30 Flexeril, a non-controlled muscle relaxant. *Id.*

According to Dr. Hurd, Respondent issued V.S. the exact same three controlled substance prescriptions through her last visit of March 5, 2012. *Id.* Dr. Hurd found that there were ''no new exam findings to corroborate the findings on MRI,'' further noting that Respondent never documented the performance of the seven tests he previously identified as the standard of care. *Id.* at 2–3. He also observed that there were no old medical records, nor pharmacy records ''referenced in the chart.'' *Id.* at 2.

Based on the chart review, Dr. Hurd further observed that Respondent never considered offering trigger point injections or referral to specialists such as ''an interventional spine physician who could perform an epidural steroid injection or . . . a spine surgeon to assess'' whether surgery would reduce V.S.'s pain. *Id.* at 3. Dr. Hurd also noted that Respondent did not offer to refer V.S. for physical therapy, acupuncture, biofeedback therapy, a psychological assessment, or a second opinion. *Id.*

Dr. Hurd thus concluded that Respondent did not meet the standards for prescribing opioids with respect to V.S. *Id.* He further concluded that Respondent lacked a legitimate medical purpose when he prescribed controlled substances to V.S. *Id.*

T.W., a thirty-six year old male, saw Respondent fifteen times between February 4, 2011 and March 20, 2012. GX 9, at 2–16. T.W. presented with a history of a gunshot wound to his abdomen (fifteen years earlier) and a car accident (three years earlier) and complained of lower back pain, which according to the progress note, had gotten progressively worse, as well as ''numbness and tingling down [his] left leg.'' GX 36J; GX 9, at 83. He further reported that his pain was a 10 without medication and a 5 with medication. GX 9, at 83.

T.W. reported having seen a chiropractor, as well as having received decompression therapy and an injection of some sort. *Id.;* GX 36J. He also reported having seen other doctors for this pain and that oxycodone 30mg had provided him with relief and that he had obtain some relief on Percocet, but none from Lortab. GX 9, at 83; *id.* at 16. Yet T.W.'s file does not contain records from his prior doctors or pharmacy records. *See generally* GX 9.

T.W. presented an MRI report which he obtained from Greater Georgia Imaging on the same day as the day of his initial visit with Respondent. The MRI report (which did not include the name of the reading radiologist and was unsigned) found that T.W. had a left paracentral disc protrusion at L4–5 and a right far posterolateral disc protrusion at L3–4. GX 9, at 82. In the physical exam section of the progress note, Respondent documented four findings: (1) The existence of moderate to severe tenderness in the paravertebral muscles in the lumbar region; (2) the existence of severe tenderness in the left sciatic area; (3) that the straight leg lift was abnormal on the right side; (4) and that test of the Deep Tendon Reflexes was ''+1.'' GX 9, at 16.

With the exception of the latter test which did not specify which reflexes (knee or ankle) were tested, Respondent did not document having examined any of the other six items which Dr. Hurd explained are required to meet the standard of care. *Id.* Respondent diagnosed T.W. as having ''lumbar radiculopathy,'' ''lumbar spasm,'' and disc protrusions at L4–5 and L3–4. GX 9, at 16. He then provided T.W. with a prescription for 30 oxycodone 30mg qd (one tablet per day), as well as Flexeril and Naproxen. *Id.* He also recommended that T.W. obtain an inversion table. *Id.*

T.W. returned on March 3, 2011, and claimed that the medication had lasted only six days. GX 9, at 15. Respondent documented his physical exam findings as ''severe tenderness paravertebral muscles lumbar spine'' and ''moderate tenderness lumbar spine.'' *Id.* He then increased T.W.'s oxycodone 30mg prescription to 120 tablets. *Id.* Respondent continued prescribing this quantity until T.W.'s visit on July 28, when the latter complained of ''having more severe pain'' and Respondent increased the prescription to 140 tablets. *Id.* at 10–14; GX 36J, at 2. Respondent continued to prescribe 140 tablets at each visit until his last visit on March 20, 2012, when T.W. again complained of ''having more pain'' and that the medication was ''not lasting long enough.'' GX 9, at 2–9; GX 36J, at 2. Respondent then increased the prescriptions to 155 tablets of oxycodone 30mg. GX 9, at 2.

Throughout this period, Respondent never documented findings on a physical exam other than that he found varying degrees of tenderness over T.W.'s paravertebral muscles in the lumbar region. GX 9, at 2–9. As Dr. Hurd found, the progress notes for the remaining 14 visits contain no documentation that Respondent examined any of the seven items he identified as part of the standard of care after T.W.'s first visit. GX 36J, at 2–3. Dr. Hurd thus opined that there was ''no correlation between the patient's MRI'' and the physical exam findings and that ''the MRI and physical findings'' did not ''warrant treatment with that level of narcotic. *Id.* at 3.

Dr. Hurd also observed that while the progress notes repeatedly listed diagnoses of ''lumbar radiculopathy'' and a bulging disc at L3 involving the nerve root, as well as that T.W. repeatedly rated his pain with medication at a 7–8, Respondent ''never offered standard treatment such as lumbar epidural steroid injections or [a] surgical referral.'' *Id.* at 2. Dr. Hurd thus concluded that Respondent did not ''meet the standard'' for prescribing opioids and that the prescriptions he issued T.W. lacked a legitimate medical purpose. *Id.* at 3.

Discussion

Section 304(a) of the Controlled Substances Act (CSA) provides that a registration to ''dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . *has committed such acts* as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section.'' 21 U.S.C. 824(a)(4) (emphasis added). With respect to a practitioner, the Act requires the consideration of the following factors in making the public interest determination:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing . . . controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id. § 823(f).

''[T]hese factors are . . . considered in the disjunctive.'' *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). It is well settled that I ''may rely on any one or a combination of factors, and may give each factor the weight [I] deem[] appropriate in determining whether a registration should be revoked.'' *Id.; see also MacKay* v. *DEA,* 664 F.3d 808, 816 (10th Cir. 2011); *Volkman* v. *DEA,* 567 F.3d 215, 222 (6th Cir. 2009); *Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005). Moreover, while I am required to consider each of the factors, I ''need not make explicit findings as to each one.'' *MacKay,* 664 F.3d at 816 (quoting *Volkman,* 567 F.3d at 222 (quoting *Hoxie,* 419 F.3d at 482)).[22]

The Government has the burden of proving, by a preponderance of the evidence, that the requirements for revocation or suspension pursuant to 21 U.S.C. 824(a) are met. 21 CFR 1301.44(e). However, ''once the [G]overnment establishes a prima facie case showing a practitioner has committed acts which render his registration inconsistent with the public interest, the burden shifts to the practitioner to show why his continued registration would be consistent with the public interest.'' *MacKay,* 664 F.3d at 817 (citing *Medicine Shoppe-Jonesborough,* 73 FR 364, 387 (2008) (citing cases)).

Having considered all of the factors, I agree with the ALJ's conclusion that the Government's evidence with respect to factors two (Respondent's experience in dispensing controlled substances) and four (Respondent's compliance with applicable controlled substance laws), establishes that Respondent has committed acts which render his registration inconsistent with the public interest.[23] 21 U.S.C. 824(a)(4).

Factors Two and Four—Respondent's Experience in Dispensing Controlled Substances and Record of Compliance With Applicable Controlled Substance Laws

To effectuate the dual goals of conquering drug abuse and controlling both the legitimate and illegitimate traffic in controlled substances, ''Congress devised a closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA.'' *Gonzales* v. *Raich,* 545 U.S. 1, 13 (2005). Consistent with the maintenance of the closed regulatory system, a controlled substance may only be dispensed upon a lawful prescription issued by a practitioner. *Carlos Gonzalez, M.D.,* 76 FR 63118, 63141 (2011).

Under a longstanding DEA regulation, a prescription for a controlled substance is not ''effective'' unless it is ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). Under the CSA, it is fundamental that a practitioner must establish a bonafide doctor-patient relationship in order to act ''in the usual course of . . . professional practice'' and to issue a prescription for a ''legitimate medical purpose.'' *See United States* v. *Moore,* 423 U.S. 122, 142–43 (1975); *United States* v. *Lovern,* 590 F.3d 1095, 1100–01 (10th Cir. 2009); *United States* v. *Smith,* 573 F.3d 639, 657 (8th Cir. 2009); *see also* 21 CFR 1306.04(a) (''an order purporting to be a prescription issued not in the usual course of professional treatment . . . is not a prescription within the meaning and intent of [21 U.S.C. 829] and . . . the person issuing it, shall be subject to the penalties provided for violations of the provisions of law related to controlled substances'').

As the Supreme Court has explained, ''the prescription requirement . . . ensures patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, [it] also bars doctors from peddling to patients who crave the drugs for those prohibited uses.'' *Gonzales* v. *Oregon,* 546 U.S. 243, 274 (2006) (citing *Moore,* 423 U.S. 122, 135, 143 (1975)).

Both this Agency and the federal courts have held that ''establishing a violation of the prescription requirement 'requires proof that the practitioner's conduct went ''beyond the bounds of any legitimate medical practice, including that which would constitute civil negligence.''' *Laurence T. McKinney,* 73 FR 43260, 43266 (2008) (quoting *United States* v. *McIver,* 470 F.3d 550, 559 (4th Cir. 2006). *See also United States* v. *Feingold,* 454 F.3d 1001, 1010 (9th Cir. 2006) (''[T]he *Moore* Court based its decision not merely on the fact that the doctor had committed malpractice, or even intentional malpractice, but rather on the fact that his actions completely betrayed any semblance of legitimate medical treatment.'').[24]

[22] In short, this is not a contest in which score is kept; the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant's misconduct. *Jayam Krishna-Iyer,* 74 FR 459, 462 (2009). Accordingly, as the Tenth Circuit has recognized, findings under a single factor can support the revocation of a registration. *MacKay,* 664 F.3d at 821.

[23] As for factor one, the recommendation of the state licensing authority, the ALJ found that Georgia Composite Medical Board has not made an ''express recommendation'' in this matter. R.D. at 82. The ALJ further noted, however, Respondent's testimony that the Board had subpoenaed some 46 patient files including five files which were presented to Dr. Hurd and that the Board declined to take any action against his medical license. *Id.* (citing Tr. 309). Respondent did not, however, identify the names of the patients whose files were reviewed by the Board. *See* Tr. 309. Moreover, while Respondent testified, in essence, that the Board had found no reason to act, he did not produce any official document from the Board setting forth its reasons for not pursuing sanctions against his license.

Although Respondent retains his state license, DEA has repeatedly held that while a practitioner's possession of state authority constitutes an essential condition for maintaining a registration, *see* 21 U.S.C. 802(21) & 823(f), it '''is not dispositive of the public interest inquiry.''' *George Mathew,* 75 FR 66138, 66145 (2010), *pet. for rev. denied Mathew* v. *DEA,* 472 Fed.Appx. 453, 455 (9th Cir. 2012); *see also Patrick W. Stodola,* 74 FR 20727, 20730 n.16 (2009); *Robert A. Leslie,* 68 FR 15227, 15230 (2003). As the Agency has long held, ''the Controlled Substances Act requires that the Administrator . . . make an independent determination [from that made by state officials] as to whether the granting of controlled substance privileges would be in the public interest.'' *Mortimer Levin,* 57 FR 8680, 8681 (1992). Thus, while Respondent satisfies the CSA's requirement that he be currently authorized to dispense controlled substances under the laws of the State in which he practices medicine, this factor is not dispositive either for, or against, the continuation of Respondent's registration. *Paul Weir Battershell,* 76 FR 44359, 44366 (2011) (citing *Edmund Chein,* 72 FR 6580, 6590 (2007), *pet. for rev. denied Chein* v. *DEA,* 533 F.3d 828 (D.C. Cir. 2008)).

Regarding factor three, there is no evidence in the record that Respondent has been convicted of an offense related to the manufacture, distribution or dispensing of controlled substances. However, as there are a number of reasons why a person may never be convicted of an offense falling under this factor, let alone be prosecuted for one, ''the absence of such a conviction is of considerably less consequence in the public interest inquiry'' and is thus not dispositive. *Dewey C. MacKay,* 75 FR 49956, 49973 (2010), *pet. for rev. denied MacKay* v. *DEA,* 664 F.3d 808 (10th Cir. 2011).

[24] However, as the Agency has held in multiple cases, ''the Agency's authority to deny an application [and] to revoke an existing registration . . . is not limited to those instances in which a practitioner intentionally diverts a controlled substance.'' *Bienvenido Tan,* 76 FR 17673, 17689 (2011) (citing *Paul J. Caragine, Jr.,* 63 FR 51592, 51601 (1998)); *see also Dewey C. MacKay,* 75 FR, at 49974. As *Caragine* explained: ''[j]ust because misconduct is unintentional, innocent, or devoid of improper motive, [it] does not preclude revocation or denial. Careless or negligent handling of controlled substances creates the opportunity for diversion and [can] justify'' the revocation of an existing registration or the denial of an application for a registration. 63 FR at 51601.

''Accordingly, under the public interest standard, DEA has authority to consider those prescribing practices of a physician, which, while not rising to the level of intentional or knowing misconduct, nonetheless create a substantial risk of diversion.'' *MacKay,* 75 FR, at 49974; *see also Patrick K. Chau,* 77 FR 36003, 36007 (2012). Likewise, ''[a] practitioner who ignores the warning signs that [his] patients are either personally abusing or diverting controlled substances commits 'acts inconsistent with the public interest,' 21 U.S.C.

As found above, both parties elicited the testimony of expert witnesses, who came to diametrically opposite conclusions regarding the lawfulness of the prescriptions. The ALJ ultimately resolved this issue, concluding that Dr. Hurd's opinion testimony was entitled to more weight than that of Dr. Warfield because of his greater familiarity with the standards of medical practice that exist in Georgia. I agree, and while I am mindful of Dr. Warfield's professional accomplishments and her testimony suggesting that Dr. Hurd was applying a ''best possible practices'' standard in evaluating Respondent's prescribing practices, rather than the actual standard of care as generally practiced by pain management physicians, I find that the evidence supports a finding that Respondent repeatedly breached the standard of care (applicable in Georgia) and did so in a manner which establishes that he acted outside of the usual course of professional practice and lacked a legitimate medical purpose in issuing many (if not all) of the prescriptions.

Notably, Dr. Warfield did not dispute Dr. Hurd's contentions that half of the patients whose MRIs show an abnormality do not have any pain and that an MRI alone ''is not sufficient'' to form a diagnosis of chronic pain. Tr. 452. Indeed, Dr. Warfield agreed with Dr. Hurd that a physical examination must be done and that a physician must determine whether the examination's findings are consistent with the MRI's findings and then correlate those findings with the patient's pain complaint. *Compare* Tr. 595–96 & 628 *with id.* at 452–54 and 485–86. Moreover, even Respondent acknowledged that ''sometimes you can have an abnormal MRI, and a person is not having pain. That's why we do those exams . . . to check the nerve roots, to see if it's consistent with the MRI report. *Id.* at 287.

Dr. Hurd also specifically identified multiple tests (including examinations of the patient's gait, range of motion, sensory, strength, mental status, and pupils) that Respondent did not perform in examining both the undercover officers and the chart-review patients that he maintained were required by the standard of care to properly diagnose the patients; he also explained why the straight leg lift was not an adequate test because it was not specific to each nerve root. Notwithstanding that Dr. Warfield reviewed Dr. Hurd's report in preparation for her testimony, she did not identify a single test among those which Dr. Hurd testified were required by the standard of care as being unnecessary to properly diagnose a patient.[25] Thus, I reject her testimony in which, while she agreed with Dr. Hurd ''that the examinations were brief,'' she offered the conclusory assertion that she did ''not believe that this in any way indicated that [Respondent's] practice was not legitimate.'' RX F2, at 3.

I therefore give substantial weight to Dr. Hurd's testimony and report in which he concluded that Respondent repeatedly failed to conduct adequate physical exams for diagnosing the undercover officers and various patients as having chronic pain which warranted the prescribing of oxycodone. So too, I give substantial weight to Dr. Hurd's conclusion that Respondent also prescribed Xanax without a legitimate medical purpose, because there was no evidence that he had properly evaluated whether the patients had anxiety. Moreover, given that for each of the patients, Dr. Hurd identified multiple tests (indeed, as many as seven different tests which should have been done but were not), I conclude that Respondent's breaches of the standard of care were not merely malpractice, but rather, establish that the prescriptions lacked a legitimate medical purpose and that he knowingly diverted controlled substances. 21 CFR 1306.04(a).

This conclusion is buttressed by Dr. Hurd's testimony and report which identified multiple other ways in which Respondent failed to comply with the Georgia Board's Guidelines for the Use of Controlled Substances for the Treatment of Pain: Ten Steps. *See* RX A. It is also supported by the evidence of TFO's Vickery's undercover visits.

To be sure, Dr. Warfield took issue with Dr. Hurd's reliance on the Guidelines. More specifically, Dr. Warfield testified that she does not ''see guidelines as being laws'' and that ''most reasonable physicians in the same situation don't know about those state guidelines.'' Tr. 597, 599–600. To similar effect, in a document which appears to be Respondent's post-hearing brief, Respondent writes that the Guidelines are not a statute or rule, but ''are simply a guide to help physicians.'' Resp. Post-Hrng. Br., at 2. However, Respondent also argues that ''[a]dherence to [the] guidelines improves quality medical practice and helps distinguish legitimate practice from foul play.'' *Id.*

The Government does not, however, argue that the Guidelines have the force and effect of law. Rather, the Guidelines are—as Respondent himself recognizes—probative evidence of the standards of professional practice that are applicable in Georgia to the use of controlled substances for treating chronic pain.[26] And as Dr. Hurd testified and documented in his report, measured against the Guidelines, Respondent's prescribing practices were deficient in other respects.

First, Step Two of the Guidelines instructs the physician to ''[c]reate a treatment plan'' and to ''consider referrals to appropriate specialists, such as neurologists, orthopedists . . . addictionologists, and psychiatrists.'' Step Two also instructs that ''[t]he written treatment plan should state objectives that will be used to determine treatment success,'' as well as whether ''any further diagnostic evaluations or treatments are planned.'' Yet with the exception of a single patient to whom he offered a trigger point injection, the treatment plans documented in the patient charts, which were submitted for the record, provided only for the use of controlled substances. Moreover, Dr. Hurd found that Respondent never referred any of the patients whose files he reviewed to specialists, nor for other treatments such as physical therapy.

824(a)(4), even if [he] is merely gullible or naïve.'' *Jayam Krishna-Iyer,* 74 FR 459, 460 n.3 (2009); *see also Chau,* 77 FR, at 36007 (holding that even if physician ''did not intentionally divert controlled substances,'' State Board Order ''identified numerous instances in which [physician] recklessly prescribed controlled substances to persons who were likely engaged in either self-abuse or diversion'' and that physician's ''repeated failure to obtain medical records for his patients, as well as to otherwise verify their treatment histories and other claims, created a substantial risk of diversion and abuse'') (citing *MacKay,* 75 FR, at 49974).

[25] Dr. Warfield also asserted that ''how extensive a physical examination is and such is really up to the individual physician to decide for an individual patient.'' Tr. 597. Undoubtedly, the scope of an appropriate physical exam is based on the nature of a patient's pain complaint and symptoms. To the extent Dr. Warfield's statement suggests that there is no standard of care which governs the scope of an appropriate physical exam, it is refuted by numerous judicial decisions in both medical malpractice and criminal cases, medical board decisions involving allegations of unprofessional conduct, and Agency decisions involving allegations of unlawful prescribing.

[26] Based on her experiences lecturing throughout the country, Dr. Warfield asserted that most physicians are unaware of the existence of the controlled substance prescribing guidelines that have been published by numerous States. However, many of the States have long published policy statements on the use of controlled substances to treat pain and it is not as if Dr. Warfield has conducted polling on the issue.

Moreover, even if knowledge of guidelines applicable to one's profession cannot be presumed in the same manner as is knowledge of duly promulgated laws and regulations, in his Exceptions, Respondent asserted that ''[b]efore working at liberty center, [in] December 2010 I went online reviewing information regarding pain management on [the] Georgia composite medical board site.'' Resp. Exceptions, at 4. Of note, the Georgia Board adopted the Guidelines in January 2008.

Notably, this point was unchallenged by Dr. Warfield.

Step Four of the Guidelines instructs the physician to ''[r]eview the patient's prescription records and discuss the patient's chemical history before prescribing a controlled drug.'' Continuing, Step Four states that ''[i]f the patient is new or otherwise unknown to you, at a minimum obtain an oral drug history and medication allergies, and discuss chemical use and family chemical history with the patient and obtain old records which may include pharmacy records.''

As to whether a physician is required to obtain a new patient's old records prior to the initial prescribing of a controlled substance, the Guideline is not a model of clarity. In any event, it is unnecessary to decide whether Respondent breached the standard of care because he failed to obtain (or even attempt to obtain) the old records which purportedly existed for TFO Lawson (who made but two visits) because the evidence otherwise shows that he did breach the standard. As the evidence shows, TFO Vickery made four visits between August 22 and December 1, 2011, and yet Respondent made no effort to obtain the records which purportedly existed for him. Most significantly, Dr. Hurd identified multiple patients who saw Respondent for a year or more and to whom he repeatedly prescribed controlled substances, and yet he did not obtain (or attempt to obtain) their records. Moreover, Respondent failed to obtain the records even when the patients claimed that they had previously been prescribed large doses of oxycodone, as well as other controlled substances such as Xanax, and were travelling long distances to see him.

Dr. Warfield unconvincingly defended Respondent's failure to obtain records. She asserted that ''[m]ost physicians do not ask for old medical records'' and that ''[w]e don't do that in our practice.'' She also asserted that ''[t]here has to be a certain amount of trust between the patient and the physician'' so that if a patient tells her she had ''back surgery in 1995,'' she doesn't ''need the medical records from that hospital where you say you had that surgery.''

Dr. Hurd did not, however, testify, and the Government makes no contention, that Dr. Mintlow was required to obtain medical records of such vintage. Moreover, while Dr. Warfield may deem it unnecessary to obtain patient records of any sort, including those establishing what medications have been previously and recently prescribed to a patient, this does not establish what the standard of care requires in any State, let alone Georgia, where the Medical Board has concluded otherwise. *See* RX A (Georgia Guidelines Step 4). And even if it is her practice not to obtain records, Liberty nonetheless required its patients to execute a form authorizing the release of their medical records including prescription profiles, progress notes, hospitalization reports, and diagnostic reports, and yet did not even attempt to obtain those records (such as prescription profiles) which would be available even if a patient's previous clinic had been shut down. *See* GX 27, at 18. So too, Respondent testified that the clinic he previously worked at would attempt to obtain prior records to verify the patients' treatment histories. Tr. 343–44. As for why no attempts were made to obtain the records of the patients identified by Dr. Hurd, Respondent blamed this on Del Percio, even though he acknowledged that it was his responsibility. *Id.* at 344–45.

Nor does this Agency dispute Dr. Warfield's statement that there has to be a certain amount of trust between the patient and physician. However, when a patient represents that he/she has previously been prescribed large doses of powerful narcotics such as oxycodone 30mg (as well as other controlled substances such as benzodiazepines), which are highly abused and diverted, and may also have travelled a long distance bypassing numerous other potential treating physicians with no plausible explanation for doing so, there is ample reason to verify the patient's claim. Indeed, requiring verification of a patient's claims that he/she had previously received large doses of narcotics is fully supported by the CSA's prescription requirement, one purpose of which is to prevent the recreational abuse of controlled substances by ''bar[ring] doctors from peddling to patients who crave the drugs for those prohibited uses'' or to sell the drugs to others who seek to abuse them. *Gonzales* v. *Oregon,* 546 U.S. 243, 274 (2006) (citing *Moore,* 423 U.S. 122, 135, 143 (1975)).

There is additional evidence which supports the conclusion that Respondent prescribed controlled substances outside of the usual course of professional practice and lacked a legitimate medical purpose. In contrast to his failure to obtain the prior records of his patients, the evidence shows that Respondent would not see a patient unless that patient had already obtained an MRI. As found above, TFO Vickery testified that prior to his first visit, he twice attempted to see Respondent and was told by Del Percio that he needed an MRI before he could be seen by Respondent. Tr. 162–63. So too, TFO Manning attempted to see Respondent without an MRI and was turned down by Del Percio, who told him that Respondent was ''not going to risk his license.'' RX G, Disc N–51.

Notably, there is no evidence that the undercovers were referred by another physician and thus would already have obtained their MRIs. So too, Dr. Hurd noted that in reviewing the patient files, he found ''over and over again'' that the patients were given an order by Liberty for an MRI before they were ever examined by Respondent. Tr. 514. Regarding this practice, Dr. Hurd explained that ''[t]here is no reason to order an MRI . . . in the absence of an emergency, without examining a patient.'' *Id.* This testimony was unchallenged by both Respondent and Dr. Warfield.

In his Exceptions, Respondent argues that ''[i]n Georgia[,] [an] MRI is not required to make a diagnosis.'' Resp. Exceptions, at 6. That is undoubtedly true. Yet Respondent was obviously aware that the Liberty patients could not see him without having previously obtained an MRI. Respondent, however, offered no explanation as to why Liberty's patients were required to have had an MRI done before he even examined them and determined that an MRI was warranted. Here, the evidence supports the inference that the MRIs were required—as Del Percio explained to TFO Manning—to justify Respondent's issuance of unlawful controlled substance prescriptions in the event law enforcement or regulators became aware of Liberty and investigated it.[27]

Still more evidence that Respondent knowingly diverted controlled substances is provided by the undercover visits of TFO Vickery. On two occasions, Vickery attempted to purchase additional controlled substances for both himself and a friend and yet Respondent continued to prescribe controlled substances to him. More specifically, at Vickery's second visit, after Respondent agreed to prescribe Opana to him, Vickery asked if he could also get some ''15s,'' a reference to oxycodone 15; while Respondent said no, Vickery then offered ''to float'' Respondent ''a couple hundred bucks on the side.'' While Respondent again said no, he nonetheless issued him prescriptions for

[27] Indeed, DEA has encountered this practice in investigating numerous other rogue pain clinics. *See Cynthia M. Cadet,* 76 FR 19450, 19455 (2011); *Jacobo Dreszer,* 76 FR 19386, 19388 & n.8 (2011).

90 Opana ER 40mg (oxymorphone), a drug which is also a schedule II controlled substance (and more potent than oxycodone), as well as 30 Xanax 1mg. Moreover, upon receiving the prescriptions, Vickery complained that the previous Xanax prescriptions ''did not last at all'' and Respondent was ''being stingy.''

Similarly, at the third visit, Vickery complained that the Opana ''went pretty quickly'' and asked for something for breakthrough pain. Moreover, Vickery then attempted to buy extra Xanax (actually showing him the cash), asserting that his buddy had asked him to see if Respondent would write him a prescription. While Respondent declined to write a Xanax prescription for Vickery's purported buddy, he nonetheless increased the Xanax prescription to forty-five tablets.

As found above, Dr. Hurd testified that these incidents should have resulted in the Respondent's termination of Vickery as a patient. Dr. Warfield disputed this. While she acknowledged that they were red flags, she asserted that they did not constitute a contraindication to providing drugs ''to this patient for [his] pain.'' Tr. 636. She then reasoned that:

> Does this patient understand that you can't just walk into a doctor's office and say, you know, I have a friend who needs some medication; here's some money? Does the patient just totally not understand that that's illegal. I don't know the answer to that question. What I understand here is that [Respondent] was offered money and outright refused it, and I think that's what's important to me when I read these records.

Id.

Notwithstanding Dr. Warfield's assertion, I conclude that patients are generally well familiar with why a prescription is required for certain drugs, especially controlled substances, and that a doctor must examine a patient before issuing prescription, and in any event, patients are also charged with knowledge of the law. Indeed, as found above, at each visit, Vickery was required to review and sign documents which warned that he could not sell, trade, or share medications, GX 27, at 10 (initial visit); or that selling or diverting medication is illegal. *Id.* at 22 & 24 (2nd visit); 28 & 30 (3rd visit); 34 & 36 (4th visit).

Beyond this, Respondent never testified that he continued to prescribe to Officer Vickery because he believed that this was simply a case of Vickery not knowing the law. Moreover, Vickery's statement to Respondent—after telling Respondent he had $200 and showing him the cash—that ''I don't know if you can do that,'' hardly suggests a degree of naïveté on Vickery's part as to the legal requirements for obtaining prescriptions.

I also find unpersuasive Dr. Warfield's further contention that because Respondent refused Vickery's offer, this establishes that he was legitimately practicing medicine. Contrary to Dr. Warfield's understanding, both the courts and the Agency have long recognized that the wink and a nod manner in which Respondent prescribed to Officer Vickery violates the CSA.[28] *See United States* v. *Moore,* 423 U.S. 122, 142–43 (1975); *United States* v. *Hooker,* 541 F.2d 300, 305 (1st Cir. 1976) (holding that where physician ''carried out little more than cursory physical examinations, if any, frequently neglected to inquire as to past medical history, and made little or no exploration of the type of problem a patient allegedly had, . . . the jury could reasonably have inferred that the minimal 'professional' procedures followed were designed only to give an appearance of propriety to appellant's unlawful distributions'').[29]

Furthermore, Dr. Warfield's assertion that Respondent was engaged in the legitimate practice of medicine simply ignores TFO Vickery's fourth visit. Indeed, in neither her report nor her testimony did Dr. Warfield even address Respondent's prescribing to TFO Vickery at this visit, which resulted in prescriptions for 90 oxycodone 25mg, 30 Xanax 1mg, and 30 Soma.

However, as the evidence shows, Respondent knew that Vickery was not a legitimate pain patient as Vickery had been a week late for his appointment and did not have drugs in his system. Moreover, Respondent expressed his belief that Vickery was not having much pain and that he did not need anything other than Naproxen (a non-controlled drug) for his pain, prompting Vickery to change his pain level (and prompting laughter from Respondent), and then going so far as to claim that his ''three'' was somebody else's ''seven or eight.''

Moreover, when Vickery explained that he did not even like Naproxen and that he liked the oxycodone and was used to taking it, Respondent remarked that Vickery was dependent on narcotics and laughed. Respondent then said that he would try to wean him down to avoid ''withdrawal problems,'' but then expressed doubt that Vickery ''would have that'' as there was no oxycodone in his system, and laughed again.

Indeed, at multiple points in the video, Vickery attempted to explain why he needed more drugs notwithstanding that he was a week late for the visit and his urine was clear, prompting laughter from Respondent. Having viewed the video, I reject Respondent's testimony that he was laughing because ''I smile all the time'' or that his laughter was the result of his being ''frustrated with'' Vickery because he was trying to reduce Vickery's medication and ''it looked like [Vickery] was trying to change it to something different.'' Tr. 372–73.

Contrary to Respondent's understanding, he—not Vickery—held the authority to prescribe controlled substances. Yet he continued to prescribe more controlled substances to Vickery, including more narcotics, notwithstanding the latter's statements that ''I like what I take'' and that he was ''used to taking it,'' prompting Respondent to acknowledge that ''we're talking about somewhat of a dependency here.'' Indeed, Respondent even agreed to increase the quantity of the oxycodone 25mg from 60 to 90 tablets after Vickery complained about the size of the prescription, and while he refused Vickery's request for Lortab, he then added a prescription for Soma after Vickery asked for the drug. And following this, Vickery promised that he would ''be in more pain next time.''

Respondent thus knew that Vickery was not a legitimate pain patient. In short, as the ALJ found, this visit ''can only be described as a negotiation over

[28] I also find entirely unpersuasive Dr. Warfield's testimony justifying Respondent's failure to document Vickery's attempts to purchase additional drugs. In the absence of documentation of such an incident in the patient's medical record, a doctor with a busy practice who merely kept a mental note could well fail to remember the incident. Moreover, as Dr. Hurd explained, one of the purposes of the medical record is to enable any subsequent treating physician to properly evaluate the patient, the effectiveness of previous treatments, and where a patient represents that they had previously been treated with controlled substances, the prior physician's reasoning and the patient's truthfulness. Tr. 451, 469. Furthermore, the Guidelines explain that a patient's ''history of substance abuse'' should be documented in the medical record. RX A, at 2.

Given that physicians are expected to assess the risks (and benefits) of various treatments (including the risk of misuse, abuse and diversion, *see id.* at 3–4 (steps four, five and seven)), it is beyond dispute that documentation of a patient's prior attempts to bribe a doctor and obtain drugs is essential information for any subsequent physician who treats the patient and considers prescribing controlled substances.

[29] *See also United States* v. *Joseph,* 709 F.3d 1082, 1104 (11th Cir. 2013) (holding physician ''acted without a legitimate medical purpose and outside the usual course of professional practice'' where the evidence showed he ''prescribed an inordinate amount of certain controlled substances, that he did so after conducting no physical examinations or only a cursory physical examination, [and] knew or should have known that his patients were misusing their prescriptions'').

the quantity of narcotics[30] Respondent would prescribe for Officer Vickery.'' R.D. at 44.

I therefore conclude that Respondent acted outside of the usual course of professional practice and lacked a legitimate medical purpose when he issued prescriptions to TFO Vickery and Lawson, as well as the patients A.B., J.B., L.L., H.W., V.S., and T.W. 21 CFR 1306.04(a). I further conclude that the Government's evidence with respect to factors two and four establishes a *prima facie* showing that Respondent ''has committed such acts as would render his registration . . . inconsistent with public interest.'' 21 U.S.C. 824(a)(4). I further hold that Respondent's prescribing violations are egregious and warrant the revocation of his registration.

The ALJ also found that Respondent engaged in actionable misconduct because in December 2011, he became aware of a newsletter published by the Georgia Board which identified various characteristics of both pill mills and drug seeking patients. R.D. at 98. While Respondent admitted to having reviewed only the former portion, as the ALJ explained:

> The similarities between the clinical practice he was leading and the features reported in the newsletter that are common to pill mills were striking, and were undeniable. [Respondent] knew his patient base was largely from out of state, and that many patients travelled a great distance to be treated there. He knew the owners had no medical background and that no other medically-trained persons worked at the clinic. He knew his patients were asking for oxycodone by name and by dosage, and he was aware that they were presenting MRIs from a common source—and that they arrived with the MRIs in hand prior to an initial office visit. He knew also the clinic was operating on a cash basis, and that he was directly benefiting from a share of that cash in a three-way split.

Id. at 99. The ALJ also noted that per the Board's newsletter, Respondent could have ''request[ed] an onsite 'courtesy meeting' with a Board agent,'' if he had any questions about Liberty's operations.[31] R.D. at 100 (quoting GX 39, at 7).

Yet Respondent did not request a meeting with a Board agent and he continued to prescribe controlled substances for Liberty until April 2012, when a search warrant was executed at the clinic. GX 34, at 2 & 6. Moreover, Dr. Hurd's report establishes that Respondent continued to unlawfully prescribe controlled substances during this period. While the ALJ discussed this evidence under factor five, it is more appropriately viewed as evidence probative of Respondent's experience in dispensing controlled substances. It is also evidence which is probative of his compliance with the CSA's prescription requirement as it refutes any suggestion that he was simply a physician who trusted his patients too much and was duped.

Sanction

Under Agency precedent, where, as here, ''the Government has proved that a registrant has committed acts inconsistent with the public interest, a registrant must 'present sufficient mitigating evidence to assure the Administrator that [he] can be entrusted with the responsibility carried by such a registration.' '' *Medicine Shoppe-Jonesborough,* 73 FR 364, 387 (2008) (quoting *Samuel S. Jackson,* 72 FR 23848, 23853 (2007) (quoting *Leo R. Miller,* 53 FR 21931, 21932 (1988))). ''Moreover, because 'past performance is the best predictor of future performance,' *ALRA Labs, Inc.* v. *DEA,* 54 F.3d 450, 452 (7th Cir.1995), [DEA] has repeatedly held that where a registrant has committed acts inconsistent with the public interest, the registrant must accept responsibility for [his] actions and demonstrate that [he] will not engage in future misconduct.'' *Medicine Shoppe,* 73 FR at 387; *see also Jackson,* 72 FR at 23853; *John H. Kennedy,* 71 FR 35705, 35709 (2006); *Prince George Daniels,* 60 FR 62884, 62887 (1995). *See also Hoxie* v. *DEA,* 419 F.3d at 483 (''admitting fault'' is ''properly consider[ed]'' by DEA to be an ''important factor[ ]'' in the public interest determination).

However, while a registrant must accept responsibility and demonstrate that he will not engage in future misconduct in order to establish that his/her continued registration is consistent with the public interest, DEA has repeatedly held these are not the only factors that are relevant in determining the appropriate sanction. *See, e.g., Joseph Gaudio,* 74 FR 10083, 10094 (2009); *Southwood Pharmaceuticals, Inc.,* 72 FR 36487, 36504 (2007). Obviously, the egregiousness and extent of a registrant's misconduct are significant factors in determining the appropriate sanction. *See Jacobo Dreszer,* 76 FR 19386, 19387–88 (2011) (explaining that a respondent can ''argue that even though the Government has made out a *prima facie* case, his conduct was not so egregious as to warrant revocation''); *Paul H. Volkman,* 73 FR 30630, 30644 (2008); *see also Paul Weir Battershell,* 76 FR 44359, 44369 (2011) (imposing six-month suspension, noting that the evidence was not limited to security and recordkeeping violations found at first inspection and ''manifested a disturbing pattern of indifference on the part of [r]espondent to his obligations as a registrant''); *Gregory D. Owens,* 74 FR 36751, 36757 n.22 (2009).

Moreover, as I have noted in several cases, '''[n]either *Jackson,* nor any other agency decision, holds . . . that the Agency cannot consider the deterrent value of a sanction in deciding whether a registration should be [suspended or] revoked.' '' *Gaudio,* 74 FR at 10094 (quoting *Southwood,* 72 FR at 36504 (2007)); *see also Robert Raymond Reppy,* 76 FR 61154, 61158 (2011); *Michael S. Moore,* 76 FR 45867, 45868 (2011). This is so, both with respect to the respondent in a particular case and the community of registrants. *See Gaudio,* 74 FR at 10095 (quoting *Southwood,* 71 FR at 36503). *Cf. McCarthy* v. *SEC,* 406 F.3d 179, 188–89 (2d Cir. 2005) (upholding SEC's express adoptions of ''deterrence, both specific and general, as a component in analyzing the remedial efficacy of sanctions'').

Thus, in *Gaudio,* the Administrator ''explained that 'even when a proceeding serves a remedial purpose, an administrative agency can properly consider the need to deter others from engaging in similar acts.' '' 74 FR at 10094 (quoting *Southwood,* 72 FR at 36504) (citing *Butz* v. *Glover Livestock Commission Co., Inc.,* 411 U.S. 182, 187–88 (1973)); *cf. McCarthy,* 406 F.3d at 189 (''Although general deterrence is not, by itself, sufficient justification for expulsion or suspension, we recognize that it may be considered as part of the overall remedial inquiry.''); *Paz Securities, Inc., et al.* v. *SEC,* 494 F.3d 1059, 1066 (D.C. Cir. 2007) (agreeing with *McCarthy*). In *Gaudio,* the Administrator further noted that the ''[c]onsideration of the deterrent effect of a potential sanction is supported by the CSA's purpose of protecting the public interest, *see* 21 U.S.C. 801, and the broad grant of authority conveyed in the statutory text, which authorizes the [suspension or] revocation of a

[30] Soma is not a narcotic. However, the drug was controlled under the CSA because of its use by narcotic abusers to enhance the effects of narcotics. *See Placement of Carisoprodol Into Schedule IV,* 76 FR 77330, 77356 (2011).

[31] While the Board spelled out these red flags in its newsletter, the red flags presented by Liberty's operations were so obvious that any physician who has practiced in legitimate settings would have quickly recognized the problematic nature of Liberty's operations without the need for a newsletter, and any responsible physician—at least one holding a DEA registration—would have ceased practicing at such a clinic. Thus, I reject as incredible, Respondent's contention that he was unfamiliar with the concept of red flags. Tr. 334.

registration when a registrant 'has committed such acts as would render [his] registration . . . inconsistent with the public interest,' *id.* § 824(a)(4), and [which] specifically directs the Attorney General to consider ['such other conduct which may threaten public health and safety,' *id.* § 823(f)].'' 74 FR at 10094 (quoting *Southwood,* 72 FR at 36504).[32]

I conclude that Respondent has not accepted responsibility for his misconduct. Notably, at the hearing, Respondent continued to maintain that he had lawfully prescribed to TFOs Lawson and Vickery. Indeed, with respect to the latter, Respondent claimed that even his prescribing at the fourth visit was legitimate because ''he [Vickery] still had pain.'' Tr. 373. So too, with respect to the patients whose charts were reviewed by Dr. Hurd, Respondent failed to acknowledge that the prescriptions were unlawful. Moreover, when asked why he did not obtain prior records, Respondent explained that ''I didn't do it, because it was the understanding that Mark [Del Percio] was going to take care of those things.'' *Id.* at 345. Respondent's failure to acknowledge his misconduct is reason alone to find that he has not produced sufficient evidence to refute the Government's showing that his registration is inconsistent with the public interest.

Even had Respondent made a sufficient showing that he accepts responsibility for his misconduct, he has failed to produce sufficient evidence of remedial measures to refute the Government's *prima facie* case. Indeed, the only evidence Respondent offered regarding remedial measures was his assertion that he would take a course (on two Saturday mornings) to become ''board certified in pain management.'' Tr. 354. However, Respondent conceded that he ''never got around to'' doing it. *Id.* at 355–56.[33]

Moreover, I conclude that revocation of Respondent's registration is warranted given the egregious nature of Respondent's misconduct and the need to deter other registrants from using their registrations to distribute controlled substances to those persons who seek the drugs to either personally abuse them or sell them to others. Here, the evidence shows that Respondent knowingly diverted controlled substances by issuing prescriptions outside of the usual course of professional practice and which lacked a legitimate medical purpose to numerous persons. *See David A. Ruben,* 78 FR 38363 (2013). Moreover, there is substantial evidence that Respondent prescribed controlled substances to multiple persons who obtained them for redistribution to others.

Such conduct strikes at the CSA's core purpose of preventing the abuse and diversion of controlled substances. *See Jack A. Danton,* 76 FR 60900, 60903 (2011); *George Mathew,* 75 FR 66138 (2010). Indeed, this Agency has revoked a practitioner's registration upon proof of as few as two acts of intentional diversion and has further explained that proof of a single act of intentional diversion is sufficient to support the revocation of a registration. *See MacKay,* 75 FR at 49977 (citing *Krishna-Iyer,* 74 FR at 463 (citing *Alan H. Olefsky,* 57 FR 928, 928–29 (1992))).

While Respondent's misconduct would be egregious if it had been confined to Officer Vickery, it was not. As found above, the Government's Expert provided credible evidence that Respondent diverted controlled substances to at least six patients, over the course of a year or more. And even after Respondent became aware of the State Board's newsletter which listed various red flags associated with pills mills that were also present at Liberty, he continued to write unlawful prescriptions to these patients until the clinic was shut down.

I therefore conclude that the public interest necessitates that Respondent's registration be revoked and that any pending application be denied. Given the egregiousness of his misconduct, I further conclude that the public interest requires that this Order be effective immediately.

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a)(4) and 823(f), as well as 28 CFR 0.100(b) and 0.104, I order that DEA Certificate of Registration BM0288983, issued to Samuel Mintlow, M.D., be, and it hereby is, revoked. I further order that any application of Samuel Mintlow, M.D., to renew or modify the above registration, be, and it hereby is, denied. This Order is effective immediately.

Dated: December 30, 2014.

Thomas M. Harrigan,

Deputy Administrator.

[FR Doc. 2015–01219 Filed 1–22–15; 8:45 am]

BILLING CODE 4410–09–P

[32] Unlike factors two (''[t]he applicant's experience in dispensing'') and three (''[t]he applicant's conviction record''), neither factor four (''Compliance with applicable laws related to controlled substances'') nor factor five (''Such other conduct which may threaten public health and safety'') contain the limiting words of ''[t]he applicant.'' As the Supreme Court has held, ''[w]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.'' *Russello* v. *United States,* 464 U.S. 16, 23 (1983). Thus, the text of factors four and five suggest that these factors are not limited to assessing the applicant's compliance with applicable laws and whether he has engaged in ''such other conduct,'' but rather authorize the Agency to also consider the effect of a sanction on inducing compliance with federal law by other practitioners.

[33] In his Exceptions, Respondent lists some twenty-three things that he promises to do in the future, which he hopes ''will eliminate many loopholes and help with the problem of drug diversion.'' Exceptions, at 2. These include, *inter alia,* that he ''will familiarize [him]self with all of Georgia's rules, statute, law and regulations and follow them,'' he ''will follow the . . . Georgia medical board pain management guidelines,'' ''stay up-to-date with changes implemented by the Georgia medical board,'' ''follow the board[']s advice from medical newsletters . . . regarding red flags and pill mills,'' ''investigate [the] patient's past history and past drug history,'' ''perform additional physical exam techniques to help with the diagnosis,'' '' pay close attention to urine drug test and perform the test myself,'' ''correlate physical exam with radiological findings,'' ''avoid seeing patients who travel long distance,'' discharge any patient ''offering any kind of bribe,'' and ''verify all past medical records'' including patient's MRIs. *Id.*

Respondent's list of promises is not evidence in the case, and thus, I give it no weight. In any event, even if he had testified as to these promises and been found credible, because he has failed to acknowledge his misconduct, I would still hold that he has not refuted the conclusion that his registration is inconsistent with the public interest.

DEPARTMENT OF LABOR

Comment Request for Information Collection for Tax Performance System, Extension Without Revision

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The U.S. Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506 (c) (2) (A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Grants of funds that are made to states for administration of their employment security laws include funds for the establishment of a Quality Control Unit in each state in order for states to assess the quality of their unemployment insurance tax programs. States perform the assessment annually in accordance

with instructions issued by the Department. The assessment and instructions are referred to as the Tax Performance System (TPS). Currently, the ETA is soliciting comments concerning the collection of data pertaining to the TPS.

DATES: Submit written comments to the office listed in the address section below on or before March 24, 2015.

ADDRESSES: Send comments to Joseph Toth, Office of Unemployment Insurance, Employment and Training Administration, U.S. Department of Labor, Room S–4522, 200 Constitution Ave. NW., Washington, DC, 20210. Telephone number 202–693–3894 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Email: *toth.joseph@dol.gov*. To obtain a copy of the proposed information collection request (ICR), please contact the person listed above.

SUPPLEMENTARY INFORMATION:

I. Background

Since 1987, states have been required by regulation at 20 CFR part 602 to operate a program to assess their Unemployment Insurance (UI) tax and benefit programs. TPS is designed to assess the major internal UI tax functions by utilizing several methodologies: Computed Measures, which are indicators of timeliness and completeness based on data automatically generated via the existing ETA 581, Contribution Operations Report (Office of Management and Budget (OMB) approval number 1205–0178, expiring 02/28/2015, and currently under review for extension at OMB); and Program Reviews, which assess accuracy through a two-fold examination. This examination involves: (a) ''Systems Reviews'' which examine tax systems for the existence of internal controls; and (b) extraction of small samples of those systems' transactions which are then examined to verify the effectiveness of controls.

II. Review Focus

The Department is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

III. Current Actions

Type of Review: Extension without change.

Title: Tax Performance System.

OMB Number: 1205–0332.

Affected Public: State Workforce Agencies.

Estimated Total Annual Respondents: 52.

Estimated Total Annual Responses:: 1739 hours.

Estimated Total Annual Burden Hours: 90,428.

Total Estimated Annual Other Cost Burden: $4,543,637.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Portia Wu,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2015–01137 Filed 1–22–15; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 2, 2015.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 2, 2015.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 8th day of January 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[33 TAA Petitions instituted between 12/15/14 and 1/2/15]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85719	Mastercraft Specialties (Workers)	Red Lion, PA	12/15/14	12/15/14
85720	Xerox Commercial Solutions, LLC (State/One-Stop)	Kennett, MO	12/15/14	12/12/14
85721	IBM—International Business Machine (State/One-Stop)	San Antonio, TX	12/15/14	12/12/14
85722	Triumph Aerostructures, Vought Aircraft Division (State/One-Stop).	Red Oak, TX	12/15/14	12/12/14
85723	Covidien (Company)	Costa Mesa, CA	12/16/14	12/15/14
85724	Fiberoptic Lighting Inc. (State/One-Stop)	Grants Pass, OR	12/16/14	12/15/14

APPENDIX—Continued

[33 TAA Petitions instituted between 12/15/14 and 1/2/15]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85725	LexisNexis (Company)	Colorado Springs, CO	12/16/14	12/15/14
85726	Hewlett-Packard Enterprise Group Americas Supply Chain Houston Manufacturing (Company).	Houston, TX	12/16/14	12/15/14
85727	Tokyo Electron America (Workers)	Rio Rancho, NM	12/16/14	11/10/14
85728	Advanced Micro Devices, Inc. (State/One-Stop)	Austin, TX	12/16/14	12/15/14
85729	General Cable Corporation (Company)	Altoona, PA	12/17/14	12/16/14
85730	Johnston Textiles, Inc. (Company)	Phoenix City, AL	12/17/14	12/16/14
85731	Sun Life Financial (State/One-Stop)	Wellesley, MA	12/17/14	12/16/14
85732	Norandal USA, Inc (State/One-Stop)	Newport, AR	12/18/14	12/17/14
85733	Brake Parts Inc. (Company)	Stanford, KY	12/18/14	12/17/14
85734	Magy Staffing (Company)	Holland, OH	12/18/14	12/16/14
85735	Verge America Ltd. (Workers)	New Windsor, NY	12/18/14	12/16/14
85736	Kolektor TKI Inc. (Company)	Fountain Inn, SC	12/18/14	12/17/14
85737	Quantum Foods (Workers)	Bolingbrook, IL	12/18/14	12/17/14
85738	XRS Corporation (Company)	Burnsville, MN	12/19/14	12/18/14
85739	Nippon Paper Industries USA (Union)	Port Angeles, WA	12/19/14	12/18/14
85740	Amerida Premium Hardwoods (State/One-Stop)	Greenville, MI	12/19/14	12/18/14
85741	Maersk (Workers)	Charlotte, NC	12/22/14	12/19/14
85742	GM Orion Assembly (State/One-Stop)	Lake Orion, MI	12/22/14	12/19/14
85743	Osram Sylvania Inc. (Union)	St. Mary's, PA	12/22/14	12/19/14
85744	Kroll Factual Data (Company)	Loveland, CO	12/22/14	12/19/14
85745	International Paper Company (Company)	Suffolk, VA	12/23/14	12/22/14
85746	Pilkington North America (Union)	Lathrop, CA	12/29/14	12/26/14
85747	JP Morgan Chase (Workers)	Akron, OH	12/29/14	12/05/14
85748	Littelfuse Inc. (Company)	Lake Mills, WI	12/30/14	12/29/14
85749	St. Thomas Medical Group LLC (Workers)	Nashville, TN	12/31/14	12/31/14
85750	Maracom Corporation (Company)	Willmar, MN	12/31/14	12/30/14
85751	DST Systems Inc (Workers)	Kansas City, MO	01/02/15	01/01/15

[FR Doc. 2015–01161 Filed 1–22–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of December 15, 2014 through January 2, 2015.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.,* conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

85,669 Smiths Detection, Inc., Edgewood, Maryland. November 24, 2013.

85,671, Diehl Controls North America, Inc., Naperville, Illinois. November 16, 2013.

85,680, Dixie Aerospace, Atlanta, Georgia. December 1, 2013.

85,685, Merkle-Korff Industries, Darlington, Wisconsin, December 3, 2013.

85,689, Honeywell Aerospace, Moorestown, New Jersey. December 3, 2013.

85,699, Fisher & Paykel Laundry Manufacturing, Inc., Clyde, Ohio. December 5, 2013.

85,701, Grammer Inc., Hudson, Wisconsin. December 4, 2013.

85,703, CareFusion Resources, LLC., Englewood, Colorado. December 8, 2013.

85,707, Covidien, Seneca, South Carolina. January 15, 2015.

85,708, Luck-E-Strike Corporation, Cassville, Missouri. December 9, 2013.

85,713, Surgical Specialties Corporation, Reading, Pennsylvania. December 10, 2013.

85,716, Flextronics International Ltd., West Chester, Pennsylvania. December 11, 2013.

85,723, Covidien, Costa Mesa, California. December 15, 2013.

85,733, Brake Parts Inc., Stanford, Kentucky. November 21, 2014.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

85,649, Oshkosh Defense, LLC., Oshkosh, Wisconsin.

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

85,642, Metlife Group, Inc., Clarks Summit, Pennsylvania.

85,670, Verizon Communications, Erie, Pennsylvania.

85,672, Twin Rivers Paper LLC, Madawaska, Maine.

85,705, KeyBank, NA, Brooklyn, Ohio.

85,720, Xerox Commercial Solutions, LLC, Kennett, Missouri.

85,734, Magy Staffing, Holland, Ohio.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

None.

I hereby certify that the aforementioned determinations were issued during the period of December 15, 2014 through January 2, 2015. These determinations are available on the Department's Web site *www.tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 9th day of January 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–01160 Filed 1–22–15; 8:45 am]

BILLING CODE 4510–FN–P

OFFICE OF MANAGEMENT AND BUDGET

OMB Final Sequestration Report to the President and Congress for Fiscal Year 2015

AGENCY: Executive Office of the President, Office of Management and Budget.

ACTION: Notice of availability of the OMB Final Sequestration Report to the President and Congress for FY 2015.

SUMMARY: OMB is issuing its Final Sequestration Report to the President and Congress for FY 2015 to report on compliance of enacted or continuing 2015 discretionary appropriations legislation with the discretionary caps. The report finds that enacted or continuing appropriations are within the current law defense and non-defense discretionary limits for 2015; therefore, a sequestration of discretionary budget authority is not required.

DATES: *Effective Date: January 20, 2015.* Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, requires the Office of Management and Budget (OMB) to issue its Final Sequestration Report 15 calendar days after the end of a congressional session. With regard to this final report and to each of the three required sequestration reports, section 254(b) specifically states the following:

SUBMISSION AND AVAILABILITY OF REPORTS.—Each report required by this section shall be submitted, in the case of CBO, to the House of Representatives, the

Senate and OMB and, in the case of OMB, to the House of Representatives, the Senate, and the President on the day it is issued. On the following day a notice of the report shall be printed in the **Federal Register**.

ADDRESSES: The OMB Sequestration Reports to the President and Congress is available on-line on the OMB home page at: *http://www.whitehouse.gov/omb/legislative_reports/sequestration*.

FOR FURTHER INFORMATION CONTACT: Thomas Tobasko, 6202 New Executive Office Building, Washington, DC 20503, Email address: *ttobasko@omb.eop.gov,* telephone number: (202) 395–5745, FAX number: (202) 395–4768. Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

Shaun Donovan,

Director.

[FR Doc. 2015–01104 Filed 1–22–15; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (15–003)]

Notice of Intent To Grant Partially Exclusive Term License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant partially exclusive term license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive term license in the United States to practice the inventions described and claimed in U.S. Provisional Patent Application Serial No. US 61/771,149 Superelastic Ternary Ordered Intermetallic Compounds, LEW–19029–1; U.S. Patent Serial No. US 8,182,741 Ball Bearings Comprising Nickel-Titanium and Methods of Manufacture Thereof, LEW–18476–1; and U.S. Patent Serial No. US 8,377,373 Compositions Comprising Nickel-Titanium and Methods of Manufacture Thereof and Articles Comprising the Same, LEW–18476–2, to Puris, LLC, having its principal place of business in Bruceton Mills, West Virginia. The fields of use may be limited to additive manufacturing. The patent rights in these inventions as applicable have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Intellectual Property Counsel, Office of Chief Counsel, NASA Glenn Research Center, 21000 Brookpark Rd., MS 21–14, Cleveland, OH 44135. Phone (216) 433–5754. Facsimile (216) 433–6790.

FOR FURTHER INFORMATION CONTACT: Kaprice Harris, Intellectual Property Counsel, Office of Chief Counsel, NASA Glenn Research Center, 21000 Brookpark Rd., MS 21–14, Cleveland, OH 44135. Phone (216) 433–5754. Facsimile (216) 433–6790. Information about other NASA inventions available for licensing can be found online at *https://technology.grc.nasa.gov.*

Sumara M. Thompson-King,

General Counsel.

[FR Doc. 2015–01116 Filed 1–22–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (15–002)]

Notice of Intent To Grant Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the inventions described and claimed in U.S. Patent Applications Serial Numbers 12/571,049 and 14/168,830, Polyimide Aerogels With Three Dimensional Cross-Linked Structure, LEW–18486–1 and LEW 18,486–2; U.S. Patent Application Serial Number 13/804,546, Flexible, High Temperature Polyimide/Urea Aerogels, LEW–18825–1; U.S. Patent Applications Serial Numbers 13/756,855 and 61/594,657, Polyimide Aerogel Thin Films, LEW–18864–1; U.S. Patent Application Serial Number 13/653,027, Novel Aerogel-Based Antennas (ABA) for Aerospace Applications, LEW–18893–1; and U.S. Patent Application Serial Number 61/993,610, Polyimide Aerogels with Polyamide Cross-Links, LEW 19,200–1, to FLEXcon Company, Inc., having its principal place of business in Spencer, Massachusetts. The fields of use may be limited to thin films in roll form in thicknesses ranging from 0 to 100 mils in the following industries: Aerospace, wire insulation, pipe insulation, variable printing labeling, automotive, electromagnetic electronics, thermal electronics, general insulation, large appliances, and wireless devices. The patent rights in these inventions as applicable have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Intellectual Property Counsel, Office of Chief Counsel, NASA Glenn Research Center, 21000 Brookpark Rd., MS 21–14, Cleveland, OH 44135. Phone (216) 433–5754. Facsimile (216) 433–6790.

FOR FURTHER INFORMATION CONTACT: Kaprice Harris, Intellectual Property Counsel, Office of Chief Counsel, NASA Glenn Research Center, 21000 Brookpark Rd., MS 21–14, Cleveland, OH 44135. Phone (216) 433–5754. Facsimile (216) 433–6790. Information about other NASA inventions available

for licensing can be found online at *https://technology.grc.nasa.gov.*

Sumara M. Thompson-King,

General Counsel.

[FR Doc. 2015–01115 Filed 1–22–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–023]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Second notice of information collection.

SUMMARY: NARA is giving public notice that we have submitted to OMB for approval the information collection described in this notice. We invite people to comment on the proposed information collection, pursuant to the Paperwork Reduction Act of 1995.

DATES: Please submit any comments to OMB, at the address below, on or before February 23, 2015 to be assured of consideration.

ADDRESSES: Send comments to Nicholas A. Fraser, Desk Officer for NARA; by mail to: Office of Management and Budget; New Executive Office Building; Washington, DC 20503; by fax to: 202–395–5167; or by email to: *Nicholas_A._Fraser@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: You may request additional information or copies of the proposed information collection and supporting statement from Tamee Fechhelm, by telephone at: 301–837–1694, or by fax at: 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. We published a notice of proposed collection for this information collection on October 28, 2014 (79 FR 64219), and received no comments. We have thus submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for NARA's proper performance of its functions; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by this collection. In this notice, NARA solicits comments concerning the following information collection:

Title: Request Pertaining to Military Records.

OMB number: 3095–0029.

Agency form number: SF 180.

Type of review: Regular.

Affected public: Veterans, their authorized representatives, state and local governments, and businesses.

Estimated number of respondents: 1,028,769.

Estimated time per response: 5 minutes.

Frequency of response: On occasion (when respondents wish to request information from a military personnel record).

Estimated total annual burden hours: 85,731 hours.

Abstract: The authority for this information collection is 36 CFR 1233.18. In accordance with rules issued by the Department of Defense (DOD) and Department of Homeland Security (DHS, U.S. Coast Guard), NARA's National Personnel Records Center (NPRC) administers veterans' military service records after discharge, retirement, or death. When veterans and other authorized individuals request information from, or copies of, documents in military service records, they must provide certain information about the veteran and the nature of the request. Federal agencies, military departments, veterans, veterans' organizations, and the general public use Standard Form (SF) 180, Request Pertaining to Military Records, to request information from military service records stored at NPRC. Veterans and next-of-kin of deceased veterans can also use eVetRecs (*http://www.archives.gov/research_room/vetrecs/*) to order copies.

Dated: January 15, 2015.

Swarnali Haldar,

Executive for Information Services/CIO.

[FR Doc. 2015–01133 Filed 1–22–15; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CAPITAL PLANNING COMMISSION

Proposed Agency Information Collection Activities, Comment Request

AGENCY: National Capital Planning Commission.

ACTION: Proposed agency information collection activities, comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA or Act) and its implementing regulations, the National Capital Planning Commission (NCPC or Commission) hereby announces an opportunity for public comment on a proposed Generic Clearance for the Collection of Qualitative Data for Planning Initiatives undertaken by the NCPC. A copy of the draft supporting statement is available at *www.ncpc.gov.* Following review and disposition of public comments, NCPC will submit this generic information request to the Office of Management and Budget (OMB) for review and approval, and additional public comment will be solicited. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Written comments will be available for public review at *www.ncpc.gov.*

DATES: Submit comments on or before March 24, 2015.

ADDRESSES: You may submit comments on the proposed rule by either of the methods listed below.

1. U.S. mail, courier, or hand delivery: Office of Public Engagement, National Capital Planning Commission, 401 9th Street NW., Suite 500, Washington, DC 20004.

2. Electronically: *info@ncpc.gov.*

FOR FURTHER INFORMATION CONTACT: Director, Office of Public Engagement, National Capital Planning Commission, 401 9th Street NW., Suite 500, Washington, DC 20004; *info@ncpc.gov,* (202) 482–7200.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for collection of information they conduct or sponsor. *Collection of information* is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60 day notice in the

Federal Register concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, NCPC is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, NCPC invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of NCPC's functions, including whether the information will have practical utility; (2) the accuracy of NCPC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Below is a summary of the collection activities the NCPC will submit for clearance by OMB as required under the PRA.

NCPC is the federal government's central planning agency for the National Capital Region. Pursuant to the National Capital Planning Act (40 U.S.C., §§ 8701 *et seq.*) NCPC prepares a comprehensive plan for the National Capital Region; reviews federal and some District of Columbia proposed developments, projects and plans; reviews District zoning amendments; prepares an annual Federal Capital Improvements Program and reviews the District Capital Improvements Program. To fulfill the mission established in the National Capital Planning Act, NCPC needs to conduct additional planning studies to inform the activities noted above.

Over the next three years, NCPC anticipates it will complete an update to elements of the ''Comprehensive Plan for the National Capital,'' including a new urban design element; update the parks and open space element and conduct a study of parks in Washington, DC; advance an initiative for Pennsylvania Avenue; conduct regional climate adaptation and infrastructure studies; prepare one or more viewshed studies; study trail proposals; prepare commemoration studies and plans; and develop area-specific plans for federal precincts in the Monumental Core, including the SW. Ecodistrict and NW. Rectangle.

Other new initiatives may be proposed during the next three years. While NCPC establishes a multi-year strategic plan and a yearly work program anticipating major initiatives, the agency's work is often shaped by external factors, including new Administration directives and the planning and development decisions of other federal agencies and local governments in the region.

To fulfill the agency mission and consistent with best planning practices, NCPC's planning initiatives are predicated on receiving public input at all development stages. Public input is voluntary. The affected public may include individuals, agencies, and organizations within the National Capital Region, as well as national and even international audiences. Agency staff may receive requests from the Commission to solicit public input on specific topic areas identified as a planning process unfolds. NCPC's plans affect federal and non-federal properties, regional residents and workers, federal and local government agencies, visitors, development interests, businesses, and civic and interest-based organizations.

Based on prior experience and current practice, each initiative collects qualitative, voluntary public feedback to inform NCPC in their planning initiatives. While the specific information requested from the public cannot be determined at this time, the general nature of the collection and collection tools used are described below. NCPC will provide more refined individual estimates of burden in subsequent notices to OMB.

To offer the public the broadest possible opportunity to comment, NCPC may ask the same questions in different formats: On line, in writing, and verbally at public meetings and focus groups. The purpose of collecting public input is to inform and shape NCPC's planning work at the earliest opportunity. Early in a planning study, public feedback is used to shape the direction and scope of the study, including possible vision and goals, study alternatives, and anticipated issues. At later stages, NCPC has often completed technical studies, and identified and developed options and alternatives for policies, physical development plans, or programs. Public input helps the agency evaluate the accuracy and usefulness of studies, and conveys preferences and responses to alternatives. Towards the end of a planning study, NCPC has typically developed early drafts of plans and policies and is seeking more detailed public comments, often on a preferred plan idea or approach. Public input is often organized around major plan/policy topics and key decisions. Public input helps the agency evaluate the full range of possible impacts and understand the preferences of the public prior to acting on a proposed policy or plan.

Information collected will be used by agency staff as they develop policy and development plans. For some initiatives, steering committees comprised of representatives from federal agencies provide advisory guidance on agency policy and development plans. These committees review and consider public input prior to providing guidance. The Commission reviews informal public input, sometimes provided in summary form, as well as formally-submitted public comments as part of their deliberations and actions on draft and final agency plans.

NCPC estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED THREE YEAR REPORTING BURDEN

[Footnote]

	Number of events	Average number of respondents/event	Number of responses	Hours/response	Total hours
Focus Groups	119	15	1785	1.5	2677.5
Public Meetings	57	50	2850	1	2850
Online comment	27	300	8100	0.5	4050
Questionnaire	15	100	1500	0.25	375
Ideas Competition	5	400	2000	.5	1000
Design Charrette	3	100	300	1.5	450

TABLE 1—ESTIMATED THREE YEAR REPORTING BURDEN—Continued

[Footnote]

	Number of events	Average number of respondents/ event	Number of responses	Hours/response	Total hours
Total	226	965	15235	.....	11402.5

Footnote: There are no capital costs or operating and maintenance costs associated with this collection.

The number of respondents to be included in each new event may vary, depending on the nature of the material and the target audience. Table 1 provides examples of the types of collection tools that may be administered and estimated burden levels during the three year period. Time to read, view or listen to the subject material is built into the estimated ''Total Hours.''

Authority: 44 U.S.C. 3501–3520.

Dated: January 20, 2015.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2015–01167 Filed 1–22–15; 8:45 am]

BILLING CODE 7520–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that two meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference from the National Endowment for the Arts, Constitution Center, 400 7th St. SW., Washington, DC 20506 as follows (all meetings are Eastern time and ending times are approximate):

State & Regional (review of National Services Agreement): This meeting will be open.

Dates: February 12, 2015 3:00 p.m. to 4:00 p.m.

State & Regional (review of Regional Arts Organization Partnership Agreements): This meeting will be open.

Dates: February 12, 2015 4:00 p.m. to 5:00 p.m.

State & Regional (review of Regional Arts Organization Partnership Agreements): This meeting will be open.

Dates: February 18, 2015 3:00 p.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Andi Mathis, Partnership Division National Endowment for the Arts, Washington, DC 20506; *mathisa@arts.gov,* or call 202/682–5430.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 15, 2012, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

Dated: January 20, 2015.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. 2015–01126 Filed 1–22–15; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. IA–14–025–EA; ASLBP No. 14–932–02–EA–BD01]

James Chaisson; Notice of Atomic Safety And Licensing Board Reconstitution

Pursuant to 10 CFR 2.313(c) and 2.321(b), the Atomic Safety and Licensing Board in the above-captioned *James Chaisson* enforcement action proceeding is hereby reconstituted as follows: Administrative Judge Michael M. Gibson (who already is serving as a Licensing Board member in this case) is appointed to serve as Chairman; and Administrative Judge G. Paul Bollwerk, III is appointed to serve in place of Administrative Judge Alex S. Karlin.

All correspondence, documents, and other materials shall continue to be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302 *et seq.*

Issued at Rockville, Maryland, this 16th day of January 2015.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2015–01181 Filed 1–22–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–327–LR and 50–238–LR; ASLBP No. 13–927–01–LR–BD01]

Tennessee Valley Authority (Sequoyah Nuclear Plant, Units 1 and 2)

Notice of Atomic Safety and Licensing Board Reconstitution

Pursuant to 10 CFR 2.313(c) and 2.321(b), the Atomic Safety and Licensing Board in the above-captioned *Sequoyah Nuclear Plant, Units 1 and 2* license renewal proceeding is hereby reconstituted by appointing Administrative Judge Paul S. Ryerson to serve as Chairman in place of Administrative Judge Alex S. Karlin, and by appointing Administrative Judge Michael F. Kennedy to serve in place of Administrative Judge Paul B. Abramson.

All correspondence, documents, and other materials shall continue to be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302 *et seq.*

Issued at Rockville, Maryland, this 16th day of January 2015.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2015–01179 Filed 1–22–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–029–COL and 52–030–COL ASLBP No. 09–879–04–COL–BD01]

Progress Energy Florida, Inc.; Levy County Nuclear Power Plant, Units 1 and 2; Notice of Atomic Safety and Licensing Board Reconstitution

Pursuant to 10 CFR 2.313(c) and 2.321(b), the Atomic Safety and Licensing Board in the above-captioned

Levy County Nuclear Power Plant, Units 1 and 2 combined operating license proceeding is hereby reconstituted by appointing Administrative Judge E. Roy Hawkens to serve as Chairman in place of Administrative Judge Alex S. Karlin.

All correspondence, documents, and other materials shall continue to be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302 *et seq.*

Issued at Rockville, Maryland, this 16th day of January 2015.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2015–01186 Filed 1–22–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0011]

Design and Inspection Criteria for Water-Control Structures Associated With Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft Regulatory Guide, request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is re-issuing for a second round of public comment, draft regulatory guide (DG)–1245, ''Design and Inspection Criteria for Water-Control Structures Associated With Nuclear Power Plants.'' This DG is proposed revision 2 of regulatory guide (RG) 1.127, ''Inspection of Water-Control Structures Associated With Nuclear Power Plants'' dated March 1978. This DG describes methods the NRC staff considers acceptable for designing and developing appropriate inservice inspection and surveillance programs for dams, slopes, canals, and other water-control structures associated with nuclear power plants.

DATES: Submit comments by March 24, 2015. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specified subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0011. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN 06A–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Robert Pettis, Office of Nuclear Reactor Regulation, telephone: 301–415–3214, email: *Robert.Pettis@nrc.gov* or Mark Orr, Office of Nuclear Regulatory Research, telephone: 301–251–7495, email: *Mark.Orr@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2011–0011 when contacting the NRC about the availability of information regarding this document. You may obtain publically-available information related to this document, by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0011. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if available in ADAMS) is provided the first time that a document is referenced. The DG is electronically available in ADAMS under Accession No. ML13255A435.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2011–0011 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled, ''Design and Inspection Criteria for Water Control Structures Associated With Nuclear Power Plants'' is temporarily identified by its task number, DG–1245. This DG–1245 is proposed revision 2 of RG 1.127, dated March 1978. This guide is a re-issue of DG–1245, ''Inspection of Water Control Structures Associated With Nuclear Power Plants'' which was originally issued for public comment in

January 2011. The NRC staff has re-written DG–1245 to more clearly identify the dams and other water control structures subject to this guidance document and is issuing it for a second round of public review and comment.

Since the release of Revision 1 of RG 1.127 in March 1978, the Federal guidelines for safety and inspection of dams and other water control structures have undergone significant revision. This DG is being updated to provide licensees and applicants with the most current guidance and to help ensure that applicants and licensees are able to demonstrate compliance with the applicable regulations.

This DG describes a method the staff of the NRC considers acceptable for designing and developing appropriate inservice inspection (ISI) and surveillance programs for dams, slopes, canals, and other water-control structures associated with emergency cooling water systems or flood protection of nuclear power plants.

This DG applies only to water control structures (*e.g.,* dams, slopes, canals, reservoirs, and associated conveyance facilities) which are part of the nuclear power plant and whose failure could either cause site flooding, the failure of the plant's emergency cooling systems, or otherwise endanger the plant.

III. Backfitting and Issue Finality

This DG, if finalized, does not constitute backfitting as defined in § 50.109 of Title 10 of the *Code of Federal Regulations* (10 CFR) (the Backfit Rule), and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52, ''Licenses, Certifications and Approvals for Nuclear Power Plants.'' This DG provides guidance on one possible means for meeting NRC's regulatory requirements for developing appropriate ISI and surveillance programs for dams, slopes, canals, and other water-control structures associated with emergency cooling and flood protection water systems as required by General Design Criterion (GDC) 45, ''Inspection of Cooling Water System,'' of Appendix A, ''General Design Criteria for Nuclear Power Plants,'' to 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities'' (10 CFR part 50).

Existing licensees and applicants of final design certification rules will not be required to comply with the new positions set forth in this DG, unless the licensee or design certification rule applicant seeks a voluntary change to its licensing basis with respect to ISI or surveillance programs for water control structures, and where the NRC determines that the safety review must include consideration of the ISI or surveillance program. Further information on the staff's use of the DG, if finalized, is contained in the DG under Section D. Implementation.

Dated at Rockville, Maryland, this 16th day of January, 2015.

For the Nuclear Regulatory Commission.

Harriet Karagiannis,

Acting Branch Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2015–01155 Filed 1–22–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302; NRC–2015–0010]

Duke Energy Florida, Inc.; Crystal River Unit 3 Nuclear Generating Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; final issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of exemptions in response to a March 28, 2014, request from Duke Energy Florida, Inc. (DEF or the licensee), representing itself and the other owners of the Crystal River Unit 3 Nuclear Generating Plant (CR–3). One exemption would permit the licensee to use funds from the CR–3 decommissioning trust (the Trust) for irradiated fuel management and site restoration activities. Another exemption would allow the licensee to use withdrawals from the Trust for these activities without prior notification to the NRC. The NRC staff is issuing a final Environmental Assessment (EA) and final Finding of No Significant Impact (FONSI) associated with the proposed exemptions.

ADDRESSES: Please refer to Docket ID NRC–2015–0010 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0010. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS public documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced. The request for exemption, dated March 28, 2014, is available in ADAMS under Accession No. ML14098A037.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Michael Orenak, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3229; email: *Michael.Orenak@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of exemptions from Sections 50.82(a)(8)(i)(A) and 50.75(h)(2) of Title 10 of the *Code of Federal Regulations* (10 CFR) for Facility Operating License No. DPR–72, issued to DEF, for CR–3, located in Citrus County, Florida. The licensee requested the exemptions by letter dated March 28, 2014. The exemptions would allow the licensee to use funds from the Trust for irradiated fuel management and site restoration activities without prior notice to the NRC, in the same manner that funds from the Trust are used under 10 CFR 50.82(a)(8) for decommissioning activities. Consistent with 10 CFR 51.21, the NRC has reviewed the requirements in 10 CFR 51.20(b) and 10 CFR 51.22(c) and has determined that an EA is the appropriate form of environmental review. Based on the results of the EA, which is provided in Section II below, the NRC is issuing this final FONSI.

II. Environmental Assessment

Description of the Proposed Action

The proposed action would exempt DEF from meeting the requirements set forth in 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(2). Specifically, the

proposed action would allow DEF to use funds from the Trust for irradiated fuel management and site restoration activities not associated with radiological decontamination and would exempt DEF from meeting the requirement for prior notification to the NRC for these activities.

The proposed action is in accordance with the licensee's application dated March 28, 2014.

Need for the Proposed Action

By letter dated February 20, 2013 (ADAMS Accession No. ML13056A005), DEF informed the NRC that it had permanently ceased power operations at CR–3 and that the CR–3 reactor vessel had been permanently defueled. CR–3 has not operated since September 2009.

As required by 10 CFR 50.82(a)(8)(i)(A), decommissioning trust funds may be used by the licensee if the withdrawals are for legitimate decommissioning activity expenses, consistent with the definition of decommissioning in 10 CFR 50.2. This definition addresses radiological decontamination and does not include activities associated with irradiated fuel management or site restoration. Similarly, the requirements of 10 CFR 50.75(h)(2) restrict the use of decommissioning trust fund disbursements (other than for ordinary and incidental expenses) to decommissioning expenses until final decommissioning has been completed. Therefore, exemptions from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(2) are needed to allow DEF to use funds from the Trust for irradiated fuel management and site restoration activities.

The licensee states that the Trust contains funds for decommissioning that are commingled with funds intended for irradiated fuel management and other site restoration activities not associated with radiological decontamination. The adequacy of funds in the Trust to cover the costs of activities associated with irradiated fuel management and site restoration in addition to radiological decontamination through license termination is supported by the CR–3 Annual Decommissioning and Irradiated Fuel Management Financial Status Report submitted by DEF in a March 31, 2014, letter (ADAMS Accession No. ML14098A039). The licensee states that it needs access to the funds in the Trust in excess of those needed for radiological decontamination to support irradiated fuel management and other site restoration activities not associated with radiological decontamination.

The requirements of 10 CFR 50.75(h)(2) further provide that, except for decommissioning withdrawals being made under 10 CFR 50.82(a)(8) or for payments of ordinary administrative costs and other incidental expenses of the Trust, no disbursement may be made from the Trust until written notice of the intention to make a disbursement has been given to the NRC at least 30 working days in advance of the intended disbursement. Therefore, an exemption from 10 CFR 50.75(h)(2) is needed to allow DEF to use funds from the Trust for irradiated fuel management and site restoration activities without prior NRC notification.

In summary, by letter dated March 28, 2014, DEF requested exemptions to allow Trust withdrawals, without prior written notification to the NRC, for irradiated fuel management and site restoration activities.

Environmental Impacts of the Proposed Action

The proposed action involves exemptions from requirements that are of a financial or administrative nature and that do not have an impact on the environment. The NRC has completed its evaluation of the proposed action and concludes that there is reasonable assurance that adequate funds are available in the Trust to complete all activities associated with decommissioning, site restoration, and irradiated fuel management. There is no decrease in safety associated with the use of the Trust to fund activities associated with irradiated fuel management and site restoration. Section 50.82(a)(8)(v) of 10 CFR requires a licensee to submit a financial assurance status report annually between the time of submitting its decommissioning cost estimate and submitting its final radiation survey and demonstrating that residual radioactivity has been reduced to a level that permits termination of its license. If the remaining balance, plus expected rate of return, plus any other financial surety mechanism does not cover the estimated costs to complete the decommissioning, additional financial assurance must be provided. These annual reports provide a means for the NRC to monitor the adequacy of available funding. Since the exemptions would allow DEF to use funds from the Trust that are in excess of those required for radiological decontamination of the site and the adequacy of funds dedicated for radiological decontamination are not affected by the proposed exemptions, there is reasonable assurance that there will be no environmental impact due to lack of adequate funding for decommissioning.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released offsite. There is no significant increase in the amount of any effluent released offsite. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have any foreseeable impacts to land, air, or water resources, including impacts to biota. In addition, there are no known socioeconomic or environmental justice impacts associated with such proposed action. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The proposed action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for CR–3, dated May 1973 (ADAMS Accession No. ML091520178).

Agencies or Persons Consulted

The staff did not enter into consultation with any other Federal Agency or with the State of Florida regarding the environmental impact of the proposed action. On October 14, 2014, the Florida state representatives were notified of the EA and FONSI.

III. Finding of No Significant Impact

The licensee has proposed exemptions from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(2), which would allow DEF to use funds from the Trust for irradiated fuel management and site restoration activities, without prior written notification to the NRC.

Consistent with 10 CFR 51.21, the NRC conducted the environmental assessment for the proposed action included in Section II above and incorporated by reference in this finding. On the basis of this environmental assessment, the NRC concludes that the proposed action will not have significant effects on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action. Other than the licensee's letter, dated March 28, 2014, there are no other environmental documents associated with this review. This document is available for public inspection as indicated above.

Dated at Rockville, Maryland, this 15th day of January, 2015.

For the Nuclear Regulatory Commission.

Douglas A. Broaddus,

Chief, Plant Licensing Branch IV–2 and Decommissioning Transition Branch, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2015–01195 Filed 1–22–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0009]

In the Matter of All Operating Reactor Licensees With Mark I Containments

AGENCY: Nuclear Regulatory Commission.

ACTION: Director's decision under 10 CFR 2.206; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a director's decision with regard to a petition dated April 13, 2011, filed by Mr. Paul Gunter, Director for Reactor Oversight Project of Beyond Nuclear (the petitioner), requesting that the NRC take action with regard to all operating General Electric (GE) Boiling Water Reactor (BWR) licensees with Mark I primary containment system (the licensees).

DATES: January 23, 2015.

ADDRESSES: Please refer to Docket ID NRC–2015–0009 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0009. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3442; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Siva P. Lingam, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1564, email: *Siva.Lingam@nrc.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Deputy Director, Office of Nuclear Reactor Regulation, has issued a director's decision (ADAMS Accession No. ML14337A243) on a petition filed by the petitioner on April 13, 2011 (ADAMS Accession No. ML11104A058).

The petitioner requested that the NRC order the immediate suspension of the operating licenses of all GE BWRs that utilize the Mark I primary containment system. As the basis of the request, the petitioner cited the events in Japan at the Fukushima Dai-Ichi nuclear power plant.

On June 8, 2011 and October 7, 2011, the petitioner met with the NRC's Petition Review Board. The meeting provided the petitioner an opportunity to provide additional information and to clarify the issues cited in the petition. Information regarding those meetings, including meeting transcripts are available in ADAMS under Package Accession Nos. ML11166A137 and ML11292A159 respectively.

The NRC sent a copy of the proposed director's decision to the petitioner and the licensees for comments on October 27, 2014 (ADAMS Package Accession No. ML14198A098). The petitioner and the licensees were asked to provide comments within 30 days on any part of the proposed director's decision that was considered to be erroneous or any issues in the petition that were not addressed. The NRC staff did not receive comments on the proposed director's decision.

The Deputy Director of the Office of Nuclear Reactor Regulation has determined that the request, to require that the NRC order the immediate suspension of the operating licenses of all GE BWRs that utilize the Mark I primary containment system, was resolved through the issuance of orders, written statements in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR), rulemaking, and the Emergency Response Data System initiative. The reasons for this decision are explained in the director's decision (DD–15–01) pursuant to 10 CFR 2.206 of the Commission's regulations.

The NRC will file a copy of the director's decision with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206. As provided by this regulation, the director's decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the director's decision in that time.

Dated at Rockville, Maryland, this 15th day of January, 2015.

For the Nuclear Regulatory Commission.

Jennifer L. Uhle,

Deputy Director, for Reactor Safety Programs Office of Nuclear Reactor Regulation.

[FR Doc. 2015–01197 Filed 1–22–15; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collections for OMB Review; Comment Request; Reportable Events; Notice of Failure To Make Required Contributions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request extension of OMB approval of revised collections of information.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval (with modifications), under the Paperwork Reduction Act, of two collections of information under PBGC's regulation on Reportable Events and Certain Other Notification Requirements (OMB control numbers 1212–0013 and 1212–0041, expiring March 31, 2015). This notice

informs the public of PBGC's intent and solicits public comment on the collections of information.

DATES: Comments must be submitted by March 24, 2015.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the Web site instructions for submitting comments.
- *Email: paperwork.comments@pbgc.gov.*
- *Fax:* 202–326–4224.
- *Mail or Hand Delivery:* Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

Comments received, including personal information provided, will be posted to *www.pbgc.gov.*

Copies of the collections of information and comments may be obtained without charge by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; visiting the Disclosure Division; faxing a request to 202–326–4042; or calling 202–326–4040 during normal business hours. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The reportable events regulation, forms, and instructions are available at *www.pbgc.gov.*

FOR FURTHER INFORMATION CONTACT: Daniel S. Liebman, Attorney (*Liebman.Daniel@PBGC.gov*), Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: Section 4043 of the Employee Retirement Income Security Act of 1974 (ERISA) requires plan administrators and plan sponsors to report certain plan and employer events to PBGC. The reporting requirements give PBGC notice of events that indicate plan or employer financial problems. PBGC uses the information provided in determining what, if any, action it needs to take. For example, PBGC might need to institute proceedings to terminate a plan (placing it in trusteeship) under section 4042 of ERISA to ensure the continued payment of benefits to plan participants and their beneficiaries or to prevent unreasonable increases in PBGC's losses.

Section 303(k) of ERISA and section 430(k) of the Internal Revenue Code of 1986 (Code) impose a lien in favor of an underfunded single-employer plan that is covered by the termination insurance program under title IV of ERISA if (1) any person fails to make a contribution payment when due, and (2) the unpaid balance of that payment (including interest), when added to the aggregate unpaid balance of all preceding payments for which payment was not made when due (including interest), exceeds $1 million. (For this purpose, a plan is underfunded if its funding target attainment percentage is less than 100 percent.) The lien is upon all property and rights to property belonging to the person or persons that are liable for required contributions (*i.e.,* a contributing sponsor and each member of the controlled group of which that contributing sponsor is a member).

Only PBGC (or, at its direction, the plan's contributing sponsor or a member of the same controlled group) may perfect and enforce this lien. ERISA and the Code require persons committing payment failures to notify PBGC within 10 days of the due date whenever there is a failure to make a required payment and the total of the unpaid balances (including interest) exceeds $1 million.

The provisions of section 4043 of ERISA and of sections 303(k) of ERISA and 430(k) of the Code have been implemented in PBGC's regulation on Reportable Events and Certain Other Notification Requirements (29 CFR part 4043). Subparts B and C of the regulation deal with reportable events, and subpart D deals with failures to make required contributions.

PBGC has issued Forms 10 and 10-Advance (10–A) and related instructions under subparts B and C (approved under OMB control number 1212–0013) [1] and Form 200 and related instructions under subpart D (approved under OMB control number 1212–0041). OMB approval of both of these collections of information expires March 31, 2015. PBGC intends to request that OMB extend its approval for three years, with modifications. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

On April 3, 2013 (at 78 FR 20039), PBGC published a proposed rule that would revise its reportable events regulation.[2] The 2013 proposal substituted a new system of waivers (safe harbors) to more effectively target troubled plans and reduce burden where possible without depriving PBGC of the information it needs to protect the pension insurance system. PBGC received 13 comment letters on the 2013 proposal. PBGC also held its first-ever regulatory public hearing, at which eight of the commenters discussed their comments. PBGC is developing a final rule, taking into account the comments and discussion at the public hearing. Because OMB approval of the current information collection will expire before the final rule is published, it is necessary for PBGC to request that OMB extend its approval.

PBGC intends to revise the current forms and instructions to:

- Require that additional supporting information be provided (*e.g.,* event date, notice due date, filing date, and why a filing is late, if applicable).
- Require more description of the pertinent facts relating to an event (*e.g.,* reason for a late contribution).
- Add an information requirement included in the regulation to Forms 10 and 10–A (for change in contributing sponsor or controlled group event).
- Provide enhanced instructions on the type of actuarial information required to be submitted.
- Include a note in the Form 10–A instructions stating that PBGC typically asks for additional information (which will be specified) to be submitted within seven days (or sooner, in some cases).
- Remove information requirements that PBGC no longer needs or can gather from public sources.
- Require a signature and certification on Form 10 and Form 10–A as to the completeness and accuracy of the contents of the filing.

PBGC is also intending to make conforming, clarifying, formatting, and editorial changes.

PBGC estimates that it will receive 835 reportable event notices per year under subparts B and C of the reportable events regulation using Forms 10 and 10–A and that the average annual burden of this collection of information is 4,290 hours and $672,000. PBGC estimates that it will receive 165 notices of failure to make required contributions per year under subpart D of the

[1] Forms 10 and 10–A are optional and may provide for reduced initial information submissions.

[2] The 2013 proposed rule was a reproposal. On November 23, 2009, PBGC published (at 74 FR 61248) a proposed rule to amend the reportable events regulation to accommodate changes to the variable-rate premium rules made pursuant to the Pension Protection Act of 2006 (PPA 2006). The rule also proposed to eliminate most automatic waivers and filing extensions, create two new reportable events based on provisions in PPA 2006, and make other changes to the reportable events regulation as well as conforming changes. PBGC reconsidered the reportable events regulation in the spirit of Executive Order 13563 on Improving Regulation and Regulatory Review and in light of the comments to the 2009 proposal.

reportable events regulation using Form 200 and that the average annual burden of this collection of information is 990 hours and $152,000.

PBGC is soliciting public comments to—

- Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collections of information, including the validity of the methodologies and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Issued in Washington, DC, this 21 st day of January, 2015.

Judith Starr,

General Counsel, Pension Benefit Guaranty Corporation.

[FR Doc. 2015–01319 Filed 1–22–15; 8:45 am]

BILLING CODE 7709–02–P

POSTAL REGULATORY COMMISSION

[Docket Nos. T2015–1; Order No. 2323]

Income Tax Review

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the calculation of the assumed Federal income tax on competitive products income for fiscal year (FY) 2014. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 16, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

In accordance with 39 U.S.C. 3634 and 39 CFR 3060.40 *et seq.,* the Postal Service filed its calculation of the assumed Federal income tax on competitive products income for fiscal year (FY) 2014.[1] The calculation details the FY 2014 competitive product revenue and expenses, the net competitive products income before tax, and the assumed Federal income tax on that income.

II. Notice of Commission Action

In accordance with 39 CFR 3060.42, the Commission establishes Docket No. T2015–1 to review the calculation of the assumed Federal income tax and supporting documentation.

The Commission invites comments on whether the Postal Service's filing in this docket is consistent with the policies of 39 U.S.C. 3634 and 39 CFR 3060.40 *et seq.* Comments are due no later than March 16, 2015. The Postal Service's filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints James F. Callow to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. T2015–1 to consider the calculation of the assumed Federal income tax on competitive products for FY 2014.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than March 16, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–01047 Filed 1–22–15; 8:45 am]

BILLING CODE 7710–FW–P

[1] United States Postal Service Notice of Submission of the Calculation of the FY 2014 Assumed Federal Income Tax on Competitive Products, January 8, 2015.

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2015–31; Order No. 2325]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning additional Global Reseller Expedited Package Contracts 1 (GREP 1) negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 23, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On January 15, 2015, the Postal Service filed notice that it has entered into an additional Global Reseller Expedited Package Contracts 1 (GREP 1) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2015–31 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 1 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, January 15, 2015 (Notice).

no later than January 23, 2015. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2015–31 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than January 23, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–01055 Filed 1–22–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2015–30; Order No. 2324]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 23, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On January 15, 2015, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2015–30 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than January 23, 2015. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2015–30 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than January 23, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–01048 Filed 1–22–15; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 6c–7; SEC File No. 270–269, OMB Control No. 3235–0276.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 6c–7 (17 CFR 270.6c–7) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''1940 Act'') provides exemption from certain provisions of Sections 22(e) and 27 of the 1940 Act for registered separate accounts offering variable annuity contracts to certain employees of Texas institutions of higher education participating in the Texas Optional Retirement Program. There are approximately 50 registrants governed by Rule 6c–7. The burden of compliance with Rule 6c–7, in connection with the registrants obtaining from a purchaser, prior to or at the time of purchase, a signed document acknowledging the restrictions on redeem ability imposed by Texas law, is estimated to be approximately 3 minutes of professional time per response for each of approximately 2300 purchasers annually (at an estimated $64 per hour),[1] for a total annual burden of 115 hours (at a total annual cost of $7,360).

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules or forms. The Commission does not include in the estimate of average burden hours the time preparing registration statements and sales literature disclosure regarding the restrictions on redeem ability imposed by Texas law. The estimate of burden hours for completing the relevant registration statements are reported on the separate PRA submissions for those statements. (See the separate PRA submissions for Form N–3 (17 CFR 274.11b) and Form N–4 (17 CFR 274.11c).)

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, January 15, 2015 (Notice).

[1] $64/hour figure for a Compliance Clerk is from SIFMA's Office Salaries in the Securities Industry 2013 surevy, modified by Commission staff to account for an 1800-hour work year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

The Commission requests written comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: January 16, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–01074 Filed 1–22–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 12d1–1; SEC File No. 270–526, OMB Control No. 3235–0584.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

An investment company (''fund'') is generally limited in the amount of securities the fund (''acquiring fund'') can acquire from another fund (''acquired fund''). Section 12(d) of the Investment Company Act of 1940 (the ''Investment Company Act'' or ''Act'') [1] provides that a registered fund (and companies it controls) cannot:

- Acquire more than three percent of another fund's securities;
- invest more than five percent of its own assets in another fund; or
- invest more than ten percent of its own assets in other funds in the aggregate.[2]

In addition, a registered open-end fund, its principal underwriter, and any registered broker or dealer cannot sell that fund's shares to another fund if, as a result:

- The acquiring fund (and any companies it controls) owns more than three percent of the acquired fund's stock; or
- all acquiring funds (and companies they control) in the aggregate own more than ten percent of the acquired fund's stock.[3]

Rule 12d1–1 under the Act provides an exemption from these limitations for ''cash sweep'' arrangements in which a fund invests all or a portion of its available cash in a money market fund rather than directly in short-term instruments.[4] An acquiring fund relying on the exemption may not pay a sales load, distribution fee, or service fee on acquired fund shares, or if it does, the acquiring fund's investment adviser must waive a sufficient amount of its advisory fee to offset the cost of the loads or distribution fees.[5] The acquired fund may be a fund in the same fund complex or in a different fund complex. In addition to providing an exemption from section 12(d)(1) of the Act, the rule provides exemptions from section 17(a) of the Act and rule 17d–1 thereunder, which restrict a fund's ability to enter into transactions and joint arrangements with affiliated persons.[6] These provisions would otherwise prohibit an acquiring fund from investing in a money market fund in the same fund complex,[7] and prohibit a fund that acquires five percent or more of the securities of a money market fund in another fund complex from making any additional investments in the money market fund.[8]

The rule also permits a registered fund to rely on the exemption to invest in an unregistered money market fund that limits its investments to those in which a registered money market fund may invest under rule 2a–7 under the Act, and undertakes to comply with all the other provisions of rule 2a–7.[9] In addition, the acquiring fund must reasonably believe that the unregistered money market fund (i) operates in compliance with rule 2a–7, (ii) complies with sections 17(a), (d), (e), 18, and 22(e) of the Act [10] as if it were a registered open-end fund, (iii) has adopted procedures designed to ensure that it complies with these statutory provisions, (iv) maintains the records required by rules 31a–1(b)(1), 31a–1(b)(2)(ii), 31a–1(b)(2)(iv), and 31a–1(b)(9); [11] and (v) preserves permanently, the first two years in an easily accessible place, all books and records required to be made under these rules.

Rule 2a–7 contains certain collection of information requirements. An unregistered money market fund that complies with rule 2a–7 would be subject to these collection of information requirements. In addition, the recordkeeping requirements under rule 31a–1 with which the acquiring fund reasonably believes the unregistered money market fund complies are collections of information for the unregistered money market fund. The adoption of procedures by unregistered money market funds to ensure that they comply with sections 17(a), (d), (e), 18, and 22(e) of the Act also constitute collections of information. By allowing funds to invest in registered and unregistered money market funds, rule 12d1–1 is intended to provide funds greater options for cash management. In order for a registered fund to rely on the exemption to invest

[1] *See* 15 U.S.C. 80a.

[2] *See* 15 U.S.C. 80a–12(d)(1)(A). If an acquiring fund is not registered, these limitations apply only with respect to the acquiring fund's acquisition of registered funds.

[3] *See* 15 U.S.C. 80a–12(d)(1)(B).

[4] *See* 17 CFR 270.12d1–1.

[5] *See* rule 12d1–1(b)(1).

[6] *See* 15 U.S.C. 80a–17(a), 15 U.S.C. 80a–17(d); 17 CFR 270.17d–1.

[7] An affiliated person of a fund includes any person directly or indirectly controlling, controlled by, or under common control with such other person. *See* 15 U.S.C. 80a–2(a)(3) (definition of ''affiliated person''). Most funds today are organized by an investment adviser that advises or provides administrative services to other funds in the same complex. Funds in a fund complex are generally under common control of an investment adviser or other person exercising a controlling influence over the management or policies of the funds. *See* 15 U.S.C. 80a–2(a)(9) (definition of ''control''). Not all advisers control funds they advise. The determination of whether a fund is under the control of its adviser, officers, or directors depends on all the relevant facts and circumstances. *See* Investment Company Mergers, Investment Company Act Release No. 25259 (Nov. 8, 2001) [66 FR 57602 (Nov. 15, 2001)], at n.11. To the extent that an acquiring fund in a fund complex is under common control with a money market fund in the same complex, the funds would rely on the rule's exemptions from section 17(a) and rule 17d–1.

[8] *See* 15 U.S.C. 80a–2(a)(3)(A), (B).

[9] *See* 17 CFR 270.2a–7.

[10] *See* 15 U.S.C. 80a–17(a), 15 U.S.C. 80a–17(d), 15 U.S.C. 80a–17(e), 15 U.S.C. 80a–18, 15 U.S.C. 80a–22(e).

[11] *See* 17 CFR 270.31a–1(b)(1), 17 CFR 270.31a–1(b)(2)(ii), 17 CFR 270.31a–1(b)(2)(iv), 17 CFR 270.31a–1(b)(9).

in an unregistered money market fund, the unregistered money market fund must comply with certain collection of information requirements for registered money market funds. These requirements are intended to ensure that the unregistered money market fund has established procedures for collecting the information necessary to make adequate credit reviews of securities in its portfolio, as well as other recordkeeping requirements that will assist the acquiring fund in overseeing the unregistered money market fund (and Commission staff in its examination of the unregistered money market fund's adviser).

The number of unregistered money market funds that are affected by rule 12d1–1 is an estimate based on the number of private liquidity funds reported on Form PF as of May 7, 2014.[12] The hour burden estimates for the condition that an unregistered money market fund comply with rule 2a–7 are based on the burden hours included in the Commission's 2013 PRA submission regarding rule 2a–7.[13] The estimated average burden hours in this collection of information are made solely for purposes of the Paperwork Reduction Act and are not derived from a quantitative, comprehensive or even representative survey or study of the burdens associated with Commission rules and forms.

In the most recent rule 2a–7 submission, Commission staff made the following estimates with respect to aggregate annual hour and cost burdens for collections of information for each existing registered money market fund:

Record of credit risk analyses, and determinations regarding adjustable rate securities, asset backed securities, securities subject to a demand feature or guarantee, and counterparties to repurchase agreements:

85 responses
680 hours of professional time
Cost: $178,160 [14]

Public Web site posting of monthly portfolio information:

12 responses
7 hours of professional time
Cost: $17,304 [15]

Review of procedures and guidelines of any investment adviser to whom the fund's board has delegated responsibility under rule 2a–7 and amendment of such procedures:

1 response
5 hours of professional and director time
Cost: $5,960 [16]

Based on new census data available on Form PF, the staff now believes that the number of private liquidity funds reported on Form PF (69) is a more current and accurate estimate the number of unregistered money market funds affected by rule 12d1–1.[17] Each of these unregistered money market funds engages in the collections of information described above. Accordingly, the staff estimates that unregistered money market funds complying with the collections of information described above engage in a total of 6,762 annual responses under rule 12d1–1,[18] the aggregate annual burden hours associated with these responses is 47,748,[19] and the aggregate annual cost to funds is $13,898,256.[20]

In the rule 2a–7 submissions, Commission staff further estimated the aggregate annual hour and cost burdens for collections of information for fund complexes with registered money market funds as follows:

Review, revise, and approve procedures concerning stress testing:

1 response
12 burden hours of professional and director time
Cost: $8,021 [21]

Report to fund boards on the results of stress testing:

5 responses
10 burden hours of professional and support staff time
Cost: $15,490 [22]

Reporting of rule 17a–9 transactions: [23]

1 response
1 burden hour of legal time
Cost: $378 [24]

Based on the number of large liquidity fund advisers reported on Form PF, the staff estimates that there are 25 fund complexes with unregistered money market funds invested in by mutual

[12] *See* U.S. Securities and Exchange Commission Annual Staff Report Relating to the Use of Data Collected from Private Fund Systemic Risk Reports, Appendix A, Census PF Data as of May 7, 2014, available at *http://www.sec.gov/reportspubs/special-studies/im-private-fund-annual-report-081514.pdf.* In the past, the staff has estimated the number of affected unregistered money market funds based on the latest number of exemptive applications received by the Commission that sought relief for registered funds to purchase shares in an unregistered money market fund in excess of the section 12(d)(1) limits. The staff's prior estimate of 30 affected unregistered money market funds was based on 40 exemptive applications received by the Commission in 2005 (the last full year in which the Commission received applications seeking an exemption to invest in unregistered money market funds in excess of the statutory limits) and adjusted by the percentage change in registered money market funds from 2005 to November 2011 (870 funds to 641 funds, according to the Investment Company Institute). The staff noted that this estimate may be understated because applicants generally did not identify the name or number of unregistered money market funds in which registered funds intended to invest, and each application also applies to unregistered money market funds to be organized in the future.

[13] *See* Securities and Exchange Commission, Request for OMB Approval of Extension for Approved Collection for Rule 2a–7 under the Investment Company Act of 1940 (OMB Control No. 3235–0268) (approved Aug. 28, 2013). In connection with amendments to rule 2a–7 adopted in July 2014, the Commission also submitted a Revision of a Currently Approved Collection for Rule 2a–7, which is not yet approved. *See* Money Market Fund Reform, Investment Company Act Release No. 31166 (July 23, 2014) [79 FR 47736 (Aug. 14, 2014)], available at *http://www.sec.gov/rules/final/2014/33-9616.pdf;* Securities and Exchange Commission, Revision of a Currently Approved Collection (OMB Control No. 3235–0268) (pending, submitted September 4, 2014).

[14] This estimate is based on the following calculation: (680 burden hours × $262 per hour for professional time) = $178,160 per fund.

[15] This estimate is based on the following calculation: (12 × 7 burden hours × $206 per hour for a webmaster) = $17,304 per fund.

[16] This estimate is based on the following calculation: (1 hour × $4,500 per hour for board time) + (4 hours × $365 per hour for professional time) = $5,960 per fund.

[17] *See supra* note 12. The staff notes, however, that this estimate may be overstated to the extent that a private liquidity fund reported on Form PF does not follow all of rule 2a-7's requirements (that include collections of information) or because no registered investment companies invest in such a fund. The staff also notes, however, that this estimate may be understated to the extent that there are additional unregistered money market funds that are not required to be reported on Form PF (because Form PF is filed only by certain investments advisers to private funds that have $150 million in private fund assets under management).

[18] The estimate is based on the following calculations: (69 funds × 85 responses for documentation of credit analyses and other determinations) = 5,865 responses. (69 funds × 12 responses for public Web site posting) = 828 responses. (69 funds × 1 response for policies and procedures related to delegation to an investment adviser) = 69 responses. 5,865 responses + 828 responses + 69 responses = 6,762 responses.

[19] This estimate is based on the following calculations: (69 funds × 680 hours for documentation of credit analyses and other determinations) = 46,920 hours. (69 funds × 7 hours for public Web site posting) = 483 hours. (69 funds × 5 hours for policies and procedures related to delegation to an investment adviser) = 345 hours. 46,920 hours + 483 hours + 345 hours = 47,748 hours.

[20] This estimate is based on the following calculations: (69 funds × $178,160) = $12,293,040. (69 funds × $17,304) = $1,193,976. (69 funds × $5,960) = $411,240. $12,293,040 + $1,193,976 + $411,240 = $13,898,256.

[21] This estimate is based on the following calculation: (1 hour × $4,500 per hour for board time) + (5 hours × $322 per hour for a portfolio manager) + (3 hours × $259 per hour for a risk management specialist) + (3 hours × $378 per hour for an attorney) = $8,021 per response.

[22] This estimate is based on the following calculation: (5 responses × 5 hours × $322 per hour for a portfolio manager) + (5 responses × 2 hours × $279 per hour for a compliance manager) + (5 responses × 2 hours × $378 per hour for an attorney) + (5 responses × 1 hour × $174 per hour for support staff) = $15,490 per fund complex.

[23] *See* 17 CFR 270.17a–9.

[24] The estimate is based on the following calculations: (1 response × $378 per hour for an attorney) = $378 per response.

funds in excess of the statutory limits under rule 12d1–1.[25] Each of these fund complexes engages in the collections of information described above. Accordingly, the staff estimates that these fund complexes complying with the collections of information described above engage in a total of 175 annual responses under rule 12d1–1,[26] the aggregate annual burden hours associated with these responses is 575,[27] and the aggregate annual cost to funds is $597,225.[28]

In the rule 2a–7 submissions, Commission staff further estimated the aggregate annual burdens for registered money market funds that experience an event of default or insolvency as follows:

Written record of board determinations and actions related to failure of a security to meet certain eligibility standards or an event of default of default or insolvency:

2 responses
1 burden hour of legal time
Cost: $378

Notice to Commission of an event of default or insolvency:

1 response
0.5 burden hours of legal time
Cost: $189

Consistent with the estimate in the rule 2a–7 submissions, Commission staff estimates that approximately 2 percent, or 1, unregistered money market fund experiences an event of default or insolvency each year. Accordingly, the staff estimates that one unregistered money market fund will comply with these collection of information requirements and engage in 3 annual responses under rule 12d1–1,[29] the aggregate annual burden hours associated with these responses is 1.5,[30] and the aggregate annual cost to funds is $567.[31]

In the rule 2a–7 submissions, Commission staff further estimated the aggregate annual burdens for newly registered money market funds as follows:

Establish written procedures and guidelines designed to stabilize the fund's net asset value and establish procedures for board delegation of authority:

1 response
15.5 hours of director, legal, and support staff time
Cost: $6,328 [32]

Adopt procedures concerning stress testing:

1 response per fund complex
22 burden hours of professional and director time per fund complex
Cost: $19,373 per fund complex [33]

Commission staff estimates that the proportion of unregistered money market funds that intend to newly undertake the collection of information burdens of rule 2a–7 will be similar to the proportion of money market funds that are newly registered. Based on a projection of 10 new money market funds per year (in the most recent rule 2a–7 submission), the staff estimates that, similarly, there will be 10 new unregistered money market funds that undertake the above burden to establish written procedures and guidelines designed to stabilize the fund's net asset value and establish procedures for board delegation of authority.[34] Accordingly, the staff estimates that 10 unregistered money market funds will comply with this collection of information requirement and engage in 10 annual responses under rule 12d1–1,[35] the aggregate annual burden hours associated with these responses is 155,[36] and the aggregate annual cost to funds is $62,380.[37]

Accordingly, the estimated total number of annual responses under rule 12d1–1 for the collections of information described in the rule 2a–7 submissions is 6,950, the aggregate annual burden hours associated with these responses is 48,479.5, and the aggregate cost to funds is $14,558,428.[38]

Rules 31a–1(b)(1), 31a–1(b)(2)(ii), 31a–1(b)(2)(iv), and 31a–1(b)(9) require registered funds to keep certain records, which include journals and general and auxiliary ledgers, including ledgers for each portfolio security and each shareholder of record of the fund. Most of the records required to be maintained by the rule are the type that generally would be maintained as a matter of good business practice and to prepare the unregistered money market fund's financial statements. Accordingly, Commission staff estimates that the requirements under rules 31a–1(b)(1), 31a–1(b)(2)(ii), 31a–1(b)(2)(iv), and 31a–1(b)(9) would not impose any additional burden because the costs of maintaining these records would be incurred by unregistered money market funds in any case to keep books and records that are necessary to prepare financial statements for shareholders, to prepare the fund's annual income tax returns, and as a normal business custom.

Rule 12d1–1 also requires unregistered money market funds in which registered funds invest to adopt procedures designed to ensure that the unregistered money market funds comply with sections 17(a), (d), (e), and 22(e) of the Act. This is a one-time collection of information requirement that applies to unregistered money market funds that intend to comply with the requirements of rule 12d1–1. As discussed above, based on a projection of 10 new money market funds per year, the staff estimates that, similarly, there will be 10 new unregistered money market funds that undertake the above burden to establish written procedures and guidelines designed to ensure that the unregistered money market funds comply with sections 17(a), (d), (e), and

[25] *See supra* note 12.

[26] The estimate is based on the following calculations: (25 fund complexes × 1 response for revision of procedures concerning stress testing) = 25 responses. (25 fund complexes × 5 responses to provide stress testing reports) = 125 responses. (25 fund complexes × 1 response for reporting of rule 17a–9 transactions) = 25 responses. 25 responses + 125 responses + 25 responses = 175 responses.

[27] This estimate is based on the following calculations: (25 fund complexes × 12 hours for revision of procedures concerning stress testing) = 300 hours. (25 fund complexes × 10 hours to provide stress testing reports) = 250 hours. (25 fund complexes × 1 hour for reporting of rule 17a–9 transactions) = 25 hours. 300 hours + 250 hours + 25 hours = 575 hours.

[28] This estimate is based on the following calculations: (25 fund complexes × $8,021 for revision of procedures concerning stress testing) = $200,525. (25 fund complexes × $15,490 to provide stress testing reports) = $387,250. (25 fund complexes × $378 for reporting of rule 17a–9 transactions) = $9,450. $200,525 + $387,250 + $9,450 = $597,225.

[29] The estimate is based on the following calculations: (1 fund × 2 responses) + (1 fund × 1 response) = 3 responses.

[30] This estimate is based on the following calculations: (1 fund × 1 hour) + (1 fund × 0.5 hours) = 1.5 hours.

[31] This estimate is based on the following calculations: (1 fund × $378) + (1 fund × $189) = $567.

[32] This estimate is based on the following calculation: (0.5 hours × $4,500 per hour for board time) + (7.2 hours × $378 per hour for an attorney) + (7.8 hours × $174 per hour for support staff) = $6,328 per response.

[33] This estimate is based on the following calculation: (3 hours × $4,500 per hour for board time) + (8 hours × $378 per hour for an attorney) + (11 hours × $259 per hour for a risk management specialist) = $19,373 per response. *See also infra* note 34.

[34] The staff's estimate is based on historical data provided in Lipper Inc.'s LANA database and projections about the growth of the money market mutual fund industry going forward. The actual number of new money market funds launched may vary significantly from our estimates depending upon developments in market interest rates and reactions to recent amendments adopted to money market funds in July 2014. The staff does not estimate any new fund complexes being launched in the next year.

[35] The estimate is based on the following calculations: (10 funds × 1 response) = 10 responses.

[36] This estimate is based on the following calculations: (10 funds × 15.5 hours) = 155 hours.

[37] This estimate is based on the following calculations: (10 funds × $6,238) = $62,380.

[38] These estimates are based upon the following calculations: (6,762 + 175 + 3+ 10) = 6,950 annual responses; (47,748 + 575 + 1.5 + 155) = 48,479.5 burden hours; and ($13,898,256 + $597,225 + $567 + $62,380) = $14,558,428.

22(e) of the Act. The staff estimates the burden as follows:

Establish written procedures and guidelines designed to ensure that the unregistered money market funds comply with sections 17(a), (d), (e), and 22(e) of the Act:

1 response
15.5 hours of director, legal, and support staff time
Cost: $6,328 [39]

Accordingly, the staff estimates that 10 unregistered money market funds will comply with this collection of information requirement and engage in 10 annual responses under rule 12d1–1,[40] the aggregate annual burden hours associated with these responses is 155,[41] and the aggregate annual cost to funds is $62,380.[42]

Commission staff also estimates that unregistered money market funds will incur costs to preserve records, as required under rule 2a–7. These costs will vary significantly for individual funds, depending on the amount of assets under fund management and whether the fund preserves its records in a storage facility in hard copy or has developed and maintains a computer system to create and preserve compliance records. In the rule 2a–7 submissions, Commission staff estimated that the amount an individual money market fund may spend ranges from $100 per year to $300,000. We have no reason to believe the range is different for unregistered money market funds. Based on Form PF data as of May 7, 2014, private liquidity funds have $257 billion in regulatory assets under management.[43] The Commission does not have specific information about the proportion of assets held in small, medium-sized, or large unregistered money market funds. Because private liquidity funds are often used as cash management vehicles, the staff estimates that each private liquidity fund is a ''large'' fund (*i.e.,* more than $1 billion in assets under management). Based on a cost of $0.0000009 per dollar of assets under management (for large funds),[44] the staff estimates compliance with rule 2–7 for these unregistered money market funds totals $231,300 annually.[45]

Consistent with estimates made in the rule 2a–7 submissions, Commission staff estimates that unregistered money market funds also incur capital costs to create computer programs for maintaining and preserving compliance records for rule 2a–7 of $0.0000132 per dollar of assets under management. Based on the assets under management figures described above, staff estimates annual capital costs for all unregistered money market funds of $3.39 million.[46] Commission staff further estimates that, even absent the requirements of rule 2a–7, money market funds would spend at least half of the amounts described above for record preservation ($115,650) and for capital costs ($1.7 million). Commission staff concludes that the aggregate annual costs of compliance with the rule are $115,650 for record preservation and $1.7 million for capital costs.

The collections of information required for unregistered money market funds by rule 12d1–1 are necessary in order for acquiring funds to be able to obtain the benefits described above. Notices to the Commission will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: January 16, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–01076 Filed 1–22–15; 8:45 am]

BILLING CODE 8011–01–P

[39] This estimate is based on the following calculation: (0.5 hours × $4,500 per hour for board time) + (7.2 hours × $378 per hour for an attorney) + (7.8 hours × $174 per hour for support staff) = $6,328 per response.

[40] The estimate is based on the following calculations: (10 funds × 1 response) = 10 responses.

[41] This estimate is based on the following calculations: (10 funds × 15.5 hours) = 155 hours.

[42] This estimate is based on the following calculations: (10 funds × $6,238) = $62,380.

[43] *See supra* note 12.

[44] The recordkeeping cost estimates are $0.0051295 per dollar of assets under management for small funds, and $0.0005041 per dollar of assets under management for medium-sized funds. The cost estimates are the same as those used in the most recently approved rule 2a–7 submission.

[45] This estimate is based on the following calculation: ($257 billion × $0.0000009) = $231,300 billion for small funds.

[46] This estimate is based on the following calculation: ($257 billion × 0.0000132) = $3.39 million.

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 206(3)–2; SEC File No. 270–216, OMB Control No. 3235–0243.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 206(3)–2, (17 CFR 275.206(3)–2) which is entitled ''Agency Cross Transactions for Advisory Clients,'' permits investment advisers to comply with section 206(3) of the Investment Advisers Act of 1940 (the ''Act'') (15 U.S.C. 80b–6(3)) by obtaining a client's blanket consent to enter into agency cross transactions (*i.e.,* a transaction in which an adviser acts as a broker to both the advisory client and the opposite party to the transaction), provided that certain disclosures are made to the client. Rule 206(3)–2 applies to all registered investment advisers. In relying on the rule, investment advisers must provide certain disclosures to their clients. Advisory clients can use the disclosures to monitor agency cross transactions that affect their advisory account. The Commission also uses the information required by Rule 206(3)–2 in connection with its investment adviser inspection program to ensure that advisers are in compliance with the rule. Without the information collected under the rule, advisory clients would not have information necessary for monitoring their adviser's handling of their accounts and the Commission would be less efficient and effective in its inspection program.

The information requirements of the rule consist of the following: (1) Prior to obtaining the client's consent appropriate disclosure must be made to the client as to the practice of, and the conflicts of interest involved in, agency cross transactions; (2) at or before the completion of any such transaction the client must be furnished with a written confirmation containing specified information and offering to furnish upon request certain additional information; and (3) at least annually, the client must be furnished with a written statement or summary as to the total number of transactions during the period covered by the consent and the total amount of commissions received by the adviser or its affiliated broker-dealer attributable to such transactions.

The Commission estimates that approximately 464 respondents use the rule annually, necessitating about 32 responses per respondent each year, for a total of 14,848 responses. Each response requires an estimated 0.5 hours, for a total of 7,424 hours. The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or representative survey or study of the cost of Commission rules and forms.

This collection of information is found at (17 CFR 275.206(3)–2) and is necessary in order for the investment adviser to obtain the benefits of Rule 206(3)–2. The collection of information requirements under the rule is mandatory. Information subject to the disclosure requirements of Rule 206(3)–2 does not require submission to the Commission; and, accordingly, the disclosure pursuant to the rule is not kept confidential. Commission-registered investment advisers are required to maintain and preserve certain information required under Rule 206(3)–2 for five (5) years. The long-term retention of these records is necessary for the Commission's inspection program to ascertain compliance with the Advisers Act.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within sixty 60 days of this publication.

Please direct your written comments to Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: January 16, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–01078 Filed 1–22–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 11a–2; SEC File No. 270–267, OMB Control No. 3235–0272.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 11a–2 (17 CFR 270.11a–2) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) permits certain registered insurance company separate accounts, subject to certain conditions, to make exchange offers without prior approval by the Commission of the terms of those offers. Rule 11a–2 requires disclosure, in certain registration statements filed pursuant to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) of any administrative fee or sales load imposed in connection with an exchange offer.

There are currently 652 registrants governed by Rule 11a–2. The Commission includes the estimated burden of complying with the information collection required by Rule 11a–2 in the total number of burden hours estimated for completing the relevant registration statements and reports the burden of Rule 11a–2 in the separate Paperwork Reduction Act (''PRA'') submissions for those registration statements (see the separate PRA submissions for Form N–3 (17 CFR 274.11b), Form N–4 (17 CFR 274.11c) and Form N–6 (17 CFR 274.11d). The Commission is requesting a burden of one hour for Rule 11a–2 for administrative purposes.

The estimate of average burden hours is made solely for the purposes of the PRA, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules or forms. With regard to Rule 11a–2, the Commission includes the estimate of burden hours in the total number of burden hours estimated for completing the relevant registration statements and reported on the separate PRA submissions for those statements (see the separate PRA submissions for Form N–3, Form N–4 and Form N–6). The information collection requirements imposed by Rule 11a–2 are mandatory. Responses to the collection of information will not be kept confidential.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: January 16, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–01075 Filed 1–22–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rules 17Ad–6 and 17Ad–7. SEC File No. 270–151, OMB Control No. 3235–0291.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17Ad–6 (17 CFR 240.17Ad–6) and Rule 17Ad–7 (17 CFR 240.17Ad–7) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17Ad–6 requires every registered transfer agent to make and keep current records about a variety of information, such as: (1) Specific operational data regarding the time taken to perform transfer agent activities (to ensure compliance with the minimum performance standards in Rule 17Ad–2 (17 CFR 240.17Ad–2)); (2) written inquiries and requests by shareholders and broker-dealers and response time thereto; (3) resolutions, contracts, or other supporting documents concerning the appointment or termination of the transfer agent; (4) stop orders or notices of adverse claims to the securities; and (5) all canceled registered securities certificates.

Rule 17Ad–7 requires each registered transfer agent to retain the records specified in Rule 17Ad–6 in an easily accessible place for a period of six months to six years, depending on the type of record or document. Rule 17Ad–7 also specifies the manner in which records may be maintained using electronic, microfilm, and microfiche storage methods.

These recordkeeping requirements are designed to ensure that all registered transfer agents are maintaining the records necessary for them to monitor and keep control over their own performance and for the Commission to adequately examine registered transfer agents on an historical basis for compliance with applicable rules.

The Commission estimates that approximately 429 registered transfer agents will spend a total of 214,500 hours per year complying with Rules 17Ad–6 and 17Ad–7 (500 hours per year per transfer agent).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: January 16, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–01077 Filed 1–22–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74092; File No. 265–29]

Notice of Federal Advisory Committee Establishment; Equity Market Structure Advisory Committee

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Federal Advisory Committee Establishment.

SUMMARY: The Securities and Exchange Commission intends to establish the Securities and Exchange Commission Equity Market Structure Advisory Committee.

ADDRESSES: Written comments may be submitted by the following methods:

Electronic Comments

- Use the Commission's Internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email message to *rule-comments@sec.gov,* including File No. 265–29 on the subject line.

Paper Comments

- Send paper comments to Brent J. Fields, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. 265–29. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/other.shtml*). Comments also will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; we do not edit personal identifying information from your submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Arisa Tinaves, Special Counsel, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–3628, (202) 551–5676.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C.—App., the Commission is publishing this notice that the Chair of the Commission, with the concurrence of the other Commissioners, intends to establish the Securities and Exchange Commission Equity Market Structure Advisory Committee (the ''Committee''). The Committee's objective is to provide the Commission with diverse perspectives on the structure and operations of the U.S. equities markets, as well as advice and recommendations on matters related to equity market structure.

No more than seventeen voting members will be appointed to the Committee. Such members shall represent a cross-section of those directly affected by, interested in, and/or qualified to provide advice to the Commission on matters related to equity market structure. The Committee's membership will be balanced fairly in terms of points of view represented and functions to be performed.

The Committee may be established 15 days after publication of this notice in the **Federal Register** by filing a charter for the Committee with the Committee on Banking, Housing, and Urban Affairs of the United States Senate, the Committee on Financial Services of the

United States House of Representatives, and the Committee Management Secretariat of the General Services Administration. A copy of the charter as so filed also will be filed with the Chair of the Commission, furnished to the Library of Congress, and posted on the Commission's Web site at *www.sec.gov.*

The Committee will operate for two years from the date the charter is filed with the appropriate entities unless the Commission directs that the Committee terminate on an earlier date. Prior to the expiration of this two-year period, the Committee's charter may be re-established or renewed in accordance with the Federal Advisory Committee Act.

The Committee will meet at such intervals as are necessary to carry out its functions. The charter contemplates that the full Committee will meet four times annually. Meetings of subgroups or subcommittees of the full Committee may occur more frequently.

The charter will provide that the duties of the Committee are to be solely advisory. The Commission alone will make any determinations of action to be taken and policy to be expressed with respect to matters within the Commission's authority as to which the Committee provides advice or makes recommendations. The Chair of the Commission affirms that the establishment of the Committee is necessary and in the public interest.

Dated: January 20, 2015.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2015–01159 Filed 1–22–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74076; File No. SR–EDGA–2015–02]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Clarify the Use of Certain Data Feeds

January 15, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on January 7, 2015, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend certain rules to adopt or align system functionality with that currently offered by BATS Exchange, Inc. (''BZX'') and BATS Y-Exchange, Inc. (''BYX'', and collectively with BZX, ''BATS'') in order to provide a consistent technology offering amongst the Exchange and its affiliates. These changes, which are described in detail below, propose to clarify for Members [3] and non-Members the Exchange's use of certain data feeds for order handling and execution, order routing, and regulatory compliance.

On July 15, 2014, the Exchange filed a proposed rule change that described its use of data feeds for order handling and execution, order routing, and regulatory compliance (the ''Initial Proposal'') with the Commission.[4] The Exchange submits this supplemental filing in order to specify for Members and non-Members the Exchange's use of certain data feeds in connection with the technology migration described in further detail below.[5]

The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

On June 5, 2014, Chair White requested that all national securities exchanges develop proposed rule changes to disclose their use of data feeds to execute and route orders and comply with regulatory requirements.[6] In addition, on June 20, 2014, the Commission's Division of Trading and Markets requested that the Exchange file proposed rule changes that disclose its usage of particular market data feeds, among other things.[7] In response to these requests, the Exchange filed the Initial Proposal with the Commission on July 15, 2014.[8] The Exchange submits this supplemental filing to describe the Exchange's use of certain data feeds for order handling and execution, order routing, and regulatory compliance in connection with the technology migration described in further detail below.[9]

Technology Migration

Earlier this year, the Exchange and its affiliate EDGX Exchange, Inc. (''EDGX'') received approval to effect a merger (the ''Merger'') of the Exchange's parent company, Direct Edge Holdings LLC, with BATS Global Markets, Inc., the parent company of BATS (the Exchange, together with BZX, BYX and EDGX, the ''BGM Affiliated Exchanges'').[10] In the context of the Merger, the BGM Affiliated Exchanges are working to migrate EDGA and EDGX onto the BATS technology platform, and align certain system functionality, retaining only

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 72682 (July 28, 2014), 79 FR 44938 (August 1, 2014) (SR–EDGA–2014–17). Other national securities exchange filed similar proposals. *See e.g.,* Securities Exchange Act Release Nos. 72710 (July 29, 2014), 79 FR 45511 (August 5, 2014) (SR–NYSE–2014–38), and 72684 (July 28, 2014), 79 FR44956 (August 1, 2014) (SR–NASDAQ–2014–072).

[5] The Exchange understands that other national security exchanges will file similar proposed rule changes with the Commission to further describe their use of data feeds for order handling and execution, order routing, and regulatory compliance.

[6] *See* Mary Jo White, Chair, Securities and Exchange Commission, Speech at Sandler O'Neill & Partners L.P. Global Exchange and Brokerage Conference (June 5, 2014).

[7] *See* letter from Stephen Luparello, Director, Division of Trading and Markets, Securities and Exchange Commission, to Joe Ratterman, Chief Executive Officer, BATS Global Markets, Inc., dated June 20, 2014.

[8] *See supra* note 6.

[9] *See supra* note 7.

[10] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGX–2013–43; SR–EDGA–2013–34).

intended differences between the BGM Affiliated Exchanges.

The proposed amendments are intended to align certain system functionality with that currently offered by BATS in order to provide a consistent technology offering for Users [11] of the BGM Affiliated Exchanges. The Exchange notes that the proposed rule text is based on corresponding proposals being submitted by all of the BGM Affiliated Exchanges. The proposed amendments do not propose to implement new or unique functionality that has not been previously filed with the Commission or is not available on BATS or BYX.

To ensure proper context and a complete filing describing the Exchange's procedures in this area both prior to and after the technology migration, the Exchange has repeated relevant information from the Initial Proposal and supplemented such information as necessary. In each section below the Exchange first describes its pre-integration functionality, which will be in place until the technology migration is complete, followed by a description of post-integration functionality. The Exchange anticipates completing the technology migration on or about January 12, 2015.

Order Handling and Execution

Pre-Integration Functionality. The Exchange's Matching Engine (the ''ME'') determines whether an order should be displayed, executed internally, or routed to another market center. In making this determination, the ME continually receives and maintains quote data that is delivered from an internal processor (the ''Feed Handler''). The market data processed by the Feed Handler is sourced directly from the Securities Information Processors (''SIP'') feeds. Specifically, the Exchange's ME uses the Consolidated Tape Association (CTA) market data operated by the Securities Industry Automation Corp. in Tapes A and B and Unlisted Trading Privileges (UTP) market data operated by NASDAQ OMX Group, Inc. in Tape C securities.

These SIP feeds contain the best (top-of-book) prices in round lot quotations of each protected venue. The Exchange's ME consumes the SIP feeds to obtain the top-of-book quotes from each protected venue, including the Exchange's affiliates, EDGX, BZX, and BYX, and the Financial Industry Regulatory Authority's (''FINRA'') Alternative Display Facility (''ADF''). The SIP feeds do not display odd lot quotations; therefore, the ME does not use odd lot quotations to calculate the national best bid and offer (''NBBO''). However, a protected venue may aggregate odd lot quotations to create round lot quotations and publish those round lot quotations to the SIPs feeds. Based on the SIP feeds and the EDGA Book,[12] the ME constructs the NBBO.

The ME will also update the NBBO upon receipt of an Intermarket Sweep Order (''ISO'') with a time-in-force of Day (''Day ISO''). When a Day ISO is posted on the EDGA Book, the ME uses the receipt of a Day ISO as evidence that the protected quotes have been cleared, and the ME does not check away markets for equal or better-priced protected quotes.[13] The ME will then display and execute non-ISO orders at the same price as the Day ISO.

The NBBO is utilized for order handling and execution. The Exchange looks to its calculation of the NBBO, based on the SIP feeds and the EDGA Book, when determining the price at which an order with a Pegged instruction,[14] MidPoint Peg Order,[15] MidPoint Discretionary Order,[16] Market Maker Peg Order,[17] or Supplemental Peg Order [18] is to be pegged.

Post-Integration Functionality. As proposed, following the technology migration in order to calculate the NBBO in its Matching Engine (the ''ME''), the Exchange will use quotes disseminated by market centers through proprietary data feeds (generally referred to as ''Direct Feeds'') as well as by the SIP. The ME will use quotes disseminated from SIP feeds for the Chicago Stock Exchange, Inc., NYSE MKT LLC and FINRA's ADF. The ME will consume the Direct Feeds from every other protected venue, including the Exchange's affiliates, BZX, BYX and EDGX.

The ME will include odd lot quotations in its calculation of the NBBO depending on the source of the quotation. Where a protected market center aggregates odd lot quotations at a single price level into round lot quotations and publishes such aggregated quotations to the SIPs, then the ME will include those odd lot quotations in its calculation of the NBBO. In addition, where a protected market center aggregates odd lot quotations across more than one price level and publishes such aggregated quotations to the SIPs, then the ME will include those odd lot quotations in its calculation of the NBBO.

In addition to receiving Direct Feeds and SIP feeds, the ME's calculation of the NBBO may be adjusted based on orders sent to other venues with protected quotations, execution reports received from those venues, and certain orders received by the Exchange (collectively ''Feedback''). The Exchange does not include its quotes in the calculation of the Exchange's NBBO because the system is designed such that all incoming orders are separately compared to the Exchange's Best Bid or Offer and the Exchange calculated NBBO, which together create a complete view of the NBBO, prior to display, execution, or routing.

Feedback from the receipt of ISOs with a time-in-force of Day (''Day ISOs'') and feedback from the Exchange's routing broker/dealer, BATS Trading, Inc., (''BATS Trading''),[19] defined respectively as ''Day ISO Feedback and ''Router Feedback,'' will be used to augment the market data received by Direct Feeds and the SIP feeds as further described below. The Exchange's ME will update the NBBO upon receipt of a Day ISO. When a Day ISO is posted on the EDGA Book, the ME uses the receipt of a Day ISO as evidence that the protected quotes have been cleared, and the ME does not check away markets for equal or better-priced protected quotes.[20] The ME will then display and

[11] The term ''User'' is defined as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.'' *See* Exchange Rule 1.5(ee).

[12] The term ''EDGA Book'' is defined as ''the System's electronic file of orders.'' *See* Exchange Rule 1.5(d).

[13] Pursuant to Regulation NMS, a broker-dealer routing a Day ISO is required to simultaneously route one or more additional ISOs, as necessary, to execute against the full displayed size of any protected quote priced equal to or better than the Day ISO. *See also* Question 5.02 in the ''Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS'' (last updated April 4, 2008) *available at http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm*.

[14] *See* Exchange Rule 11.6(j).

[15] *See* Exchange Rule 11.8(d).

[16] *See* Exchange Rule 11.8(e).

[17] *See* Exchange Rule 11.8(f).

[18] *See* Exchange Rule 11.8(g).

[19] The Exchange notes that it recently filed a separate proposal reflecting a change from its current routing broker-dealer, Direct Edge ECN LLC (d/b/a DE Route), to the use of BATS Trading, Inc. as the Exchange's routing broker-dealer in connection with the technology migration. *See* Securities Exchange Act Release No. 73939 (December 24, 2014), 80 FR 91 (January 2, 2015) (SR–EDGA–2014–34).

[20] Pursuant to Regulation NMS, a broker-dealer routing a Day ISO is required to simultaneously route one or more additional ISOs, as necessary, to execute against the full displayed size of any protected quote priced equal to or better than the Day ISO. *See also* Question 5.02 in the ''Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS'' (last updated April 4, 2008) *available at http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm*.

execute non-ISO orders at the same price as the Day ISO.

All Feedback expires as soon as: (i) One (1) second passes; (ii) the Exchange receives new quote information; or (iii) the Exchange receives updated Feedback information. With the exception of Day ISO Feedback, the Exchange currently generates Feedback where an order was routed using a routing strategy offered by the Exchange that accesses protected quotes of trading venues on the System Routing Table (''Smart Order Routing'').[21]

As described above, the NBBO is utilized for order handling and execution. In determining the price where an order with a Pegged instruction,[22] MidPoint Peg Order,[23] MidPoint Discretionary Order,[24] Market Maker Peg Order [25] or Supplemental Peg Order [26] is to be pegged, the Exchange uses the Pegged NBBO (''PBBO''). The Exchange will calculate the PBBO using information regarding orders displayed on the EDGA Book in addition to the quotes disseminated by market centers through Direct Feeds, SIP feeds, and Feedback used by the ME for its NBBO calculation.

Order Routing

Pre-Integration Functionality. When the Exchange has a marketable order with instructions from the sender that the order is eligible to be routed, and the ME identifies that there is no matching price available on the Exchange, but there is a matching price represented at another venue that displays protected quotes, then the ME will send the order to the Routing Engine (''RE'') of Direct Edge ECN LLC (d/b/a DE Route).[27]

In determining whether to route an order and to which venue(s) it should be routed, the RE uses quotes disseminated from Direct Feeds, including EDGA, EDGX, BZX and BYX, and the SIP feeds from those venues where the Exchange does not take the Direct Feeds, including FINRA's ADF.

The RE utilizes a third-party market data processor that consumes the Direct Feeds and the SIP feeds, aggregates the quantities of symbols by price level, and redistributes them to an internal quote processor (the ''Quote Server''). The RE will request from the Quote Server a market data snapshot which includes the top-of-book and/or depth-of-book of each market center offering depth-of-book feeds. Depending on the source of the quotation, the Quote Server may include odd lot quotations if the market center publishes odd lot quotations in its Direct Feed.

Based on this snapshot, the RE determines where to route the order, allocating the shares to the venues at each price level up to the limit price of the order, starting with the best quotes subject to the Member's instructions. If there are any shares remaining after the response to the initial route is received, the RE will take another snapshot from the Quote Server and send out orders based on the same logic. If the full quantity of the order is not executed after multiple route attempts, the order is returned to the ME.

In addition, the RE utilizes in-flight order information in its routing methodology. The RE tracks the details of each in-flight order, including the quantity routed and the corresponding quote published by the routed venue. After the RE requests a market data snapshot from the Quote Server and the RE has already targeted this quote (identified by venue, symbol, price, quantity and time stamp), then the RE will subtract the routed quantity of in-flight orders from the quote size displayed in the market data snapshot. The RE will route an order for the remaining quantity to the venue. If there are no residual shares, the RE will bypass the quote.

The RE also utilizes responses from other venues displaying protected quotes in its routing methodology. When the RE receives a response from a venue that does not completely fill the order targeting a quote, and no subsequent quote update has been received from that venue at the same price level, the RE will mark that venue's quote as stale at that price level.[28] Absent additional quote updates from that venue, the RE will bypass the quote for one (1) second. After one second, if the quote is still included in the market data snapshot, the RE will target the quote again.

Post Integration Functionality. As proposed, following the technology migration, when the Exchange has a marketable order with instructions from the sender that the order is eligible to be routed, and the ME identifies that there is no matching price available on the Exchange but there is a matching price represented at another venue that displays protected quotes, then the ME will send the order to the RE of BATS Trading.

In determining whether to route an order and to which venue(s) it should be routed, the RE will make its own calculation of the NBBO using the Direct Feeds, SIP feeds, and Router Feedback, as described below.[29] The RE will include odd lot quotations in its calculation of the NBBO depending on the source of the quotation. Where a protected market center aggregates odd lot quotations at a single price level into round lot quotations and publishes such aggregated quotations to the SIPs, then the RE will include those odd lot quotations in its calculation of the NBBO.

The RE will not utilize Day ISO Feedback in constructing the NBBO; however, because all orders initially flow through the ME, to the extent Day ISO Feedback has updated the ME's calculation of the NBBO, all orders processed by the RE will take Day ISO Feedback into account. The RE will receive Feedback from all Smart Order Routing strategies.

There are three types of Router Feedback that contribute to the Exchange's calculation of the NBBO:

- Immediate Feedback. Where BATS Trading routes an order to a venue with a protected quotation using Smart Order Routing (a ''Feedback Order''), the number of shares available at that venue will be immediately decreased by the number of shares routed to the venue at the applicable price level.
- Execution Feedback. Where BATS Trading receives an execution report associated with a Feedback Order that indicates that the order has fully executed with no remaining shares associated with the order, all opposite side quotes on the venue's order book that are priced more aggressively than the price at which the order was executed will be ignored.
- Cancellation Feedback. Where BATS Trading receives an execution report associated with a Feedback Order that indicates that the order has not fully executed (either a partial execution or a cancellation), all opposite side quotes on the venue's order book that are priced equal to or more aggressively than the limit price for the order will be ignored.

All Feedback expires as soon as: (i) One (1) second passes; (ii) the Exchange receives new quote information; or (iii)

[21] As set forth in Rule 11.11(g), the term ''System routing table'' refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them.

[22] *See* Exchange Rule 11.6(j).

[23] *See* Exchange Rule 11.8(d).

[24] *See* Exchange Rule 11.8(e).

[25] *See* Exchange Rule 11.8(f).

[26] *See* Exchange Rule 11.8(g).

[27] *See supra* note 21.

[28] Question 11 of the ''Division of Market Regulation: Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS'' describes routing practices in the context of stale quotes, *available at http://www.sec.gov/divisions/marketreg/rule611faq.pdf.*

[29] The ME and RE consume the same Direct Feeds and SIP feeds.

the Exchange receives updated Feedback information.

Regulatory Compliance

Locked or Crossed Markets

Pre-Integration Functionality. The ME determines whether the display of an order would lock or cross the market. At the time an order is entered into the ME, the ME will establish, based upon the prevailing top-of-book quotes of other exchanges displaying protected quotes received from the SIP feeds, whether the order will lock or cross the prevailing NBBO for a security. In the event that the order would produce a locking or crossing condition, the ME will cancel the order, re-price [30] the order or route the order based on the Member's instructions. Two exceptions to this logic are Day ISOs and declarations of self-help.

Pursuant to Regulation NMS, when an Exchange receives a Day ISO, the sender of the ISO retains the responsibility to comply with applicable rules relating to locked and crossed markets.[31] In such case, the Exchange will display a Day ISO order at the Member's price, even if such price would lock or cross the market.[32]

Declarations of self-help occur when the RE detects that an exchange displaying protected quotes is slow, as defined in Regulation NMS, or non-responsive to the Exchange's routed orders. In this circumstance, according to Rule 611(b) of Regulation NMS, the Exchange may display a quotation that may lock or cross quotations from the market that the Exchange invoked self-help against.[33] The ME and RE, when they process market data, maintain logic that ignores the quotes generated from the self-helped market in their calculations of the NBBO for execution and routing determinations in compliance with Regulation NMS. The Exchange also disables all routing to the self-helped market. The ME and Quote Server continue to consume the self-helped market center's quotes, however, in order to immediately include the quote in the NBBO calculation and enable routing once self-help is revoked. The Exchange excludes quotes from the self-helped market for re-pricing purposes and to price orders such as orders with a Pegged instruction and MidPoint Peg Orders.

Post-Integration Functionality. The Exchange's post-integration functionality is similar to the pre-integration functionality. However, the Exchange notes that at the time an order is entered into the ME, the ME will establish, based upon its calculation of the NBBO from Direct Feeds, SIP feeds and Feedback, whether the order will lock or cross the prevailing NBBO for a security.

Trade-Through Rule

Pre-Integration Functionality. Pursuant to Rule 611 of Regulation NMS, the Exchange shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trade-throughs on trading centers of protected quotations in NMS stocks that do not fall within a valid exception and, if relying on such an exception, that are reasonably designed to ensure compliance with the terms of the exception. The ME does not permit an execution on the Exchange if there are better-priced protected quotations displayed in the market unless the order is an ISO. At the time an order is entered into the ME, the ME uses the view of the NBBO as described above. If the NBBO is priced better than what is resident on the Exchange, the Exchange will not match such order on the EDGA Book, and based on the Member's instructions, the ME will cancel the order, re-price the order or route the order.

Post-Integration Functionality. The Exchange's post-integration functionality that describes compliance with the trade-through rule is the same as the Exchange's pre-integration functionality. The Exchange again notes that following the technology migration, it will calculation the NBBO using Direct Feeds, SIP Feeds, and Feedback.

Regulation SHO

Pre-Integration Functionality. The Exchange cannot execute a short sale order [34] equal to or below the current National Best Bid (''NBB'') when a short sale price restriction is in effect pursuant to Rule 201 of Regulation SHO (''Short Sale Circuit Breaker'').[35] When a Short Sale Circuit Breaker is in effect, the Exchange utilizes information received from the SIP feeds and a view of the EDGA Book to assess its compliance with Rule 201 of Regulation SHO. The NBBO used for compliance with Rule 201 of Regulation SHO includes quotes from market centers against which the Exchange has declared self-help.

Post-Integration Functionality. The Exchange's post-integration functionality is similar to the pre-integration functionality, including that the NBBO used for compliance with Rule 201 of Regulation SHO will include quotes from market centers against which the Exchange has declared self-help. However, the Exchange notes that when a Short Sale Circuit Breaker is in effect, the Exchange will utilize information received from Direct Feeds, SIP feeds, Feedback and a view of the EDGA Book to assess its compliance with Rule 201 of Regulation SHO.

Latent or Inaccurate Direct Feeds

Pre-Integration Functionality. Where the Exchange's systems detect problems with one or more Direct Feeds, the Quote Server can manually fail over to the SIP feed to calculate the NBBO for the market center(s) where the applicable Direct Feed is experiencing issues. In order to make this determination, the Quote Server continuously polls every Direct Feed line and generates an email alert if the difference between a quote's sent time (as stamped by the sending market) and the time of receipt by the Exchange exceeds one (1) second.

Post-Integration Functionality. As proposed, where the Exchange's systems detect problems with one or more Direct Feeds, the Exchange will immediately fail over to the SIP feed to calculate the NBBO for the market center(s) where the applicable Direct Feed is experiencing issues. The Exchange can also manually fail over to the SIP feed in lieu of Direct Feed data upon identification by a market center of an issue with its Direct Feed(s).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)

[30] *See* Exchange Rule 11.6(l).

[31] *See supra* note 22.

[32] *See supra* note 22.

[33] *See also* Question 5.03 in the ''Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS'' (last updated April 4, 2008) *available at http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm.*

[34] *See* Exchange Rule 11.6(l)(2).

[35] 17 CFR 242.200(g); 17 CFR 242.201. On February 26, 2010, the Commission adopted amendments to Regulation SHO under the Act in the form of Rule 201, pursuant to which, among other things, short sale orders in covered securities generally cannot be executed or displayed by a trading center, such as the Exchange, at a price that is at or below the current NBB when a Short Sale Circuit Breaker is in effect for the covered security. *See* Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010). In connection with the adoption of Rule 201, Rule 200(g) of Regulation SHO was also amended to include a ''short exempt'' marking requirement. *See also* Securities Exchange Act Release No. 63247 (November 4, 2010), 75 FR 68702 (November 9, 2010) (extending the compliance date for Rules 201 and 200(g) to February 28, 2011). *See also* Division of Trading & Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, *www.sec.gov/divisions/marketreg/rule201faq.htm.*

of the Act [36] in general, and furthers the objectives of Section 6(b)(5) of the Act [37] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange does not believe that this proposal will permit unfair discrimination among customers, brokers, or dealers because it will be available to all Users.

The Exchange believes that its proposal to describe the Exchange's use of data feeds removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity and transparency regarding both the current operation of the System and the operation of the System following the migration to BATS technology. The Exchange's proposal will enable investors to better assess the quality of the Exchange's execution and routing services. The Exchange believes the additional transparency into the operation of the Exchange as described in the proposal will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. On the contrary, the Exchange believes the proposal would enhance competition because describing the Exchange's use of data feeds enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services. In addition, the Exchange believes the proposed rule change will benefit Exchange participants in that it is one of several changes necessary to achieve a consistent technology offering by the BGM Affiliated Exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange filed the Initial Proposal with the Commission on July 15, 2014, and it was published for comment in the **Federal Register** on August 1, 2014. The Commission received four (4) letters commenting on companion filings: Two (2) letters commented on SR–BATS–2014–029,[38] one (1) letter commented on SR–BATS–2014–029 and SR–BYX–2014–012,[39] and one (1) letter commented on SR–EDGX–2014–20.[40] The Exchange believes that the comments raised in these letters are either not directly related to the Exchange's proposal but instead raise larger market structure issues or are adequately addressed in this proposal, particularly as it relates to the Commission's request to describe the Exchange's use of data feeds for order handling and execution, order routing, and regulatory compliance.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [41] and Rule 19b–4(f)(6) thereunder.[42]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [43] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [44] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of the operative delay will allow the Exchange to immediately adopt rule text consistent with the Initial Proposal and operate in the same manner as BATS with respect to the use of data feeds. In addition, the Exchange stated that waiver of the operative delay will allow it to continue to move towards a complete technology integration of the BGM Affiliated Exchanges to ensure stability of the System. For these reasons, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[45]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–EDGA–2015–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

[36] 15 U.S.C. 78f(b).

[37] 15 U.S.C. 78f(b)(5).

[38] *See* Letter from R.T. Leuchtkafer to the Commission, dated August 22, 2014 (SR–BATS–2014–029) (discussing the Exchange's market data feed practices). *See* Letter from Eric Scott Hunsader, Nanex, LLC, to the Commission, dated August 22, 2014 (SR–BATS–2014–029) (discussing the Exchange's use of NBBO as a defined term).

[39] *See* Letter from Donald Bollerman, Head of Market Operations, IEX ATS, to the Commission, dated September 25, 2014 (SR–BATS–2014–029) (SR–BYX–2014–012) (discussing the Exchange's calculation of the PBBO).

[40] *See* Letter from Suzanne Hamlet Shatto to the Commission, dated August 19, 2014 (SR–EDGX–2014–20) (discussing Dodd Frank principles).

[41] 15 U.S.C. 78s(b)(3)(A).

[42] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[43] 17 CFR 240.19b–4(f)(6).

[44] 17 CFR 240.19b–4(f)(6)(iii).

[45] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR–EDGA–2015–02*. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2015–02 and should be submitted on or before February 13, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[46]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01065 Filed 1–22–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74074; File No. SR–BATS–2015–04]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Clarify the Use of Certain Data Feeds

January 15, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on January 7, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to clarify for Members [3] and non-Members the Exchange's use of certain data feeds for order handling and execution, order routing, and regulatory compliance. On July 15, 2014, the Exchange filed a proposed rule change that described its use of data feeds for order handling and execution, order routing, and regulatory compliance (the ''Initial Proposal'') with the Securities and Exchange Commission (the ''Commission'').[4] The Exchange submits this supplemental filing in order to further clarify for Members and non-Members the Exchange's use of certain data feeds and to make one modification with respect to the usage of such data feeds as previously described.[5]

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

On June 5, 2014, Chair White requested that all national securities exchanges develop proposed rule changes to disclose their use of data feeds to execute and route orders and comply with regulatory requirements.[6] In addition, on June 20, 2014, the Commission's Division of Trading and Markets requested that the Exchange file proposed rule changes that disclose its usage of particular market data feeds, among other things.[7] In response to these requests, the Exchange filed the Initial Proposal with the Commission on July 15, 2014.[8] The Exchange submits this supplemental filing to further clarify for Members and non-Members the Exchange's use of certain data feeds for order handling and execution, order routing, and regulatory compliance.[9] In addition, the Exchange proposes to modify the way that it constructs the Pegged NBBO, as further described below. To ensure proper context and a complete filing describing the Exchange's procedures in this area, the Exchange has repeated all relevant information from the Initial Proposal and supplemented such information as necessary.

Order Handling and Execution

In order to calculate the national best bid and offer (''NBBO'') in its Matching Engine (the ''ME''), the Exchange uses quotes disseminated by market centers through proprietary data feeds (generally referred to as ''Direct Feeds'') as well as by the Securities Information Processors (''SIP''). The ME uses quotes disseminated from SIP feeds for the Chicago Stock Exchange, Inc., NYSE MKT LLC and the Financial Industry Regulatory Authority's Alternative Display Facility. The ME consumes the

[46] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 72685 (July 28, 2014), 79 FR 44889 (August 1, 2014) (SR–BATS–2014–029). Other national securities exchange filed similar proposals. *See, e.g.,* Securities Exchange Act Release Nos. 72710 (July 29, 2014), 79 FR 45511 (August 5, 2014) (SR–NYSE–2014–38), and 72684 (July 28, 2014), 79 FR44956 (August 1, 2014) (SR–NASDAQ–2014–072).

[5] The Exchange understands that other national security exchanges will file similar proposed rule changes with the Commission to further describe their use of data feeds for order handling and execution, order routing, and regulatory compliance.

[6] *See* Mary Jo White, Chair, Securities and Exchange Commission, Speech at Sandler O'Neill & Partners L.P. Global Exchange and Brokerage Conference (June 5, 2014).

[7] *See* letter from Stephen Luparello, Director, Division of Trading and Markets, Securities and Exchange Commission, to Joe Ratterman, Chief Executive Officer, BATS Global Markets, Inc., dated June 20, 2014.

[8] *See supra* note 6.

[9] *See supra* note 7.

Direct Feeds from every other protected venue, including the Exchange's affiliates, BATS Y-Exchange, Inc. (''BYX''), EDGA Exchange, Inc. (''EDGA''), and EDGX Exchange, Inc. (''EDGX'').

The ME will include odd lot quotations in its calculation of the NBBO depending on the source of the quotation. Where a protected market center aggregates odd lot quotations at a single price level into round lot quotations and publishes such aggregated quotations to the SIPs, then the ME will include those odd lot quotations in its calculation of the NBBO. In addition, where a protected market center aggregates odd lot quotations across more than one price level and publishes such aggregated quotations to the SIPs, then the ME will include those odd lot quotations in its calculation of the NBBO.

In addition to receiving Direct Feeds and SIP feeds, the ME's calculation of the NBBO may be adjusted based on orders sent to other venues with protected quotations, execution reports received from those venues, and certain orders received by the Exchange (collectively ''Feedback''). The Exchange does not include its quotes in the calculation of the Exchange's NBBO because the system is designed such that all incoming orders are separately compared to the Exchange's Best Bid or Offer and the Exchange calculated NBBO, which together create a complete view of the NBBO, prior to display, execution, or routing.

Feedback from the receipt of Intermarket Sweep Orders (''ISOs'') with a time-in-force of Day (''Day ISOs'') and feedback from the Exchange's routing broker/dealer, BATS Trading, Inc., (''BATS Trading''), defined respectively as ''Day ISO Feedback'' and ''Router Feedback,'' are used to augment the market data received by Direct Feeds and the SIP feeds as further described below. The Exchange's ME will update the NBBO upon receipt of a Day ISO. When a Day ISO is posted on the BATS Book,[10] the ME uses the receipt of a Day ISO as evidence that the protected quotes have been cleared, and the ME does not check away markets for equal or better-priced protected quotes.[11] The ME will then display and execute non-ISO orders at the same price as the Day ISO.

All Feedback expires as soon as: (i) One (1) second passes; (ii) the Exchange receives new quote information; or (iii) the Exchange receives updated Feedback information. With the exception of Day ISO Feedback, the Exchange currently generates Feedback where an order was routed using a routing strategy offered by the Exchange that accesses protected quotes of trading venues on the System routing table (''Smart Order Routing'').[12]

The Exchange currently determines the price at which a Pegged Order,[13] Mid-Point Peg Order,[14] Market Maker Peg Order,[15] or Supplemental Peg Order [16] is to be pegged based on the Pegged NBBO (''PBBO''). The Exchange's Matching Engine calculates the PBBO using the Exchange's quotes from the SIP feeds, and quotes disseminated from the same Direct Feeds, SIP feeds, and Feedback used by the ME for its NBBO calculation. As noted above, the Exchange does not otherwise utilize quotations from its local book in calculating the NBBO, and thus, the quotation from the SIP has been necessary for pegged orders in order to generate a view of the Exchange's quotations.

Earlier this year, the Exchange and its affiliate, BYX, received approval to effect a merger (the ''Merger'') of the Exchange's parent company, BATS Global Markets, Inc., with Direct Edge Holdings LLC, the indirect parent of EDGA and EDGX (the Exchange, together with BYX, EDGA and EDGX, the ''BGM Affiliated Exchanges'').[17] In the context of the Merger, the BGM Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the BGM Affiliated Exchanges. As previously described by EDGA and EDGX,[18] in addition to information regarding other markets' quotes such exchanges currently construct an NBBO for purposes of pegged orders using information regarding orders on the applicable exchange's local order book (*i.e.,* EDGA constructs a pegged NBBO using information regarding orders on the EDGA order book and EDGX constructs a pegged NBBO using information regarding orders on the EDGX order book). In connection with the technology integration the Exchange similarly proposes to use information regarding orders displayed on the BATS Book in addition to quotes disseminated from Direct Feeds, SIP Feeds, and Feedback in order to construct the PBBO. Thus, as proposed, the Exchange would no longer use the Exchange's quotes from the SIP feeds in order to construct the PBBO.

Order Routing

When the Exchange has a marketable order with instructions from the sender that the order is eligible to be routed, and the ME identifies that there is no matching price available on the Exchange, but there is a matching price represented at another venue that displays protected quotes, then the ME will send the order to the Routing Engine (''RE'') of BATS Trading.

In determining whether to route an order and to which venue(s) it should be routed, the RE makes its own calculation of the NBBO using the Direct Feeds, SIP feeds, and Router Feedback, as described below.[19] The RE will include odd lot quotations in its calculation of the NBBO depending on the source of the quotation. Where a protected market center aggregates odd lot quotations at a single price level into round lot quotations and publishes such aggregated quotations to the SIPs, then the RE will include those odd lot quotations in its calculation of the NBBO.

The RE does not utilize Day ISO Feedback in constructing the NBBO; however, because all orders initially flow through the ME, to the extent Day ISO Feedback has updated the ME's calculation of the NBBO, all orders processed by the RE do take Day ISO Feedback into account. The RE receives Feedback from all Smart Order Routing strategies.

There are three types of Router Feedback that contribute to the Exchange's calculation of the NBBO:

- Immediate Feedback. Where BATS Trading routes an order to a venue with a protected quotation using Smart Order Routing (a ''Feedback Order''), the number of shares available at that venue is immediately decreased by the number of shares routed to the venue at the applicable price level.

[10] *See* Exchange Rule 1.5(e).

[11] Pursuant to Regulation NMS, a broker-dealer routing a Day ISO is required to simultaneously route one or more additional ISOs, as necessary, to execute against the full displayed size of any protected quote priced equal to or better than the Day ISO. *See also* Question 5.02 in the ''Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS'' (last updated April 4, 2008) *available at http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm.*

[12] As set forth in Rule 11.13(a)(3), the term ''System routing table'' refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them.

[13] *See* Exchange Rule 11.9(c)(8).

[14] *See* Exchange Rule 11.9(c)(9).

[15] *See* Exchange Rule 11.9(c)(16).

[16] *See* Exchange Rule 11.9(c)(19).

[17] *See* Securities Exchange Act Release No. 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR–BATS–2013–059; SR–BYX–2013–039).

[18] *See* Securities Exchange Act Release Nos. 72682 (July 28, 2014), 79 FR 44938 (August 1, 2014) (SR–EDGA–2014–17); 72683 (July 28, 2014), 79 FR 44950 (August 1, 2014) (SR–EDGX–2014–20).

[19] The ME and RE consume the same Direct Feeds and SIP feeds.

• Execution Feedback. Where BATS Trading receives an execution report associated with a Feedback Order that indicates that the order has fully executed with no remaining shares associated with the order, all opposite side quotes on the venue's order book that are priced more aggressively than the price at which the order was executed will be ignored.

• Cancellation Feedback. Where BATS Trading receives an execution report associated with a Feedback Order that indicates that the order has not fully executed (either a partial execution or a cancellation), all opposite side quotes on the venue's order book that are priced equal to or more aggressively than the limit price for the order will be ignored.

All Feedback expires as soon as: (i) One (1) second passes; (ii) the Exchange receives new quote information; or (iii) the Exchange receives updated Feedback information.

Regulatory Compliance

Locked or Crossed Markets. The ME determines whether the display of an order would lock or cross the market. At the time an order is entered into the ME, the ME will establish, based upon its calculation of the NBBO from Direct Feeds, SIP feeds and Feedback, whether the order will lock or cross the prevailing NBBO for a security. In the event that the order would produce a locking or crossing condition, the ME will cancel the order, re-price [20] the order, or route the order based on the Member's instructions. Two exceptions to this logic are Day ISOs and declarations of self-help.

Pursuant to Regulation NMS, when an Exchange receives a Day ISO, the sender of the ISO retains the responsibility to comply with applicable rules relating to locked and crossed markets.[21] In such case, the Exchange is obligated only to display a Day ISO order at the Member's price, even if such price would lock or cross the market.[22]

Declarations of self-help occur when the RE detects that an exchange displaying protected quotes is slow, as defined in Regulation NMS, or non-responsive to the Exchange's routed orders. In this circumstance, according to Rule 611(b) of Regulation NMS, the Exchange may display a quotation that may lock or cross the market that the Exchange invoked self-help against. [23] The Exchange may also declare self-help where another exchange's SIP quotes are slow or non-responsive resulting in a locked or crossed market. Once the Exchange declares self-help, the ME and RE will ignore the quotes generated from the self-helped market in their calculations of the NBBO for execution and routing determinations in compliance with Regulation NMS. The Exchange will also disable all routing to the self-helped market. The ME and RE will continue to consume the self-helped market center's quotes; however, in order to immediately include the quote in the NBBO calculation and enable routing once self-help is revoked.

Trade-Through Rule. Pursuant to Rule 611 of Regulation NMS, the Exchange shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trade-throughs on trading centers of protected quotations in NMS stocks that do not fall within a valid exception and, if relying on such an exception, that are reasonably designed to ensure compliance with the terms of the exception. The ME does not permit an execution on the Exchange if there are better-priced protected quotations displayed in the market unless the order is an ISO. At the time an order is entered into the ME, the ME uses the view of the NBBO as described above. If the NBBO is priced better than what is resident on the Exchange, the Exchange does not match such order on the BATS Book, and based on the Member's instructions, the ME cancels the order, re-prices the order or routes the order.

Regulation SHO. The Exchange cannot execute a Short Sale Order [24] equal to or below the current National Best Bid (''NBB'') when a short sale price restriction is in effect pursuant to Rule 201 of Regulation SHO (''Short Sale Circuit Breaker'').[25] When a Short Sale Circuit Breaker is in effect, the Exchange utilizes information received from Direct Feeds, SIP feeds, and Feedback, and a view of the BATS Book to assess its compliance with Rule 201 of Regulation SHO. The primary difference between the NBBO used for compliance with Rule 201 of Regulation SHO and other constructions of the NBBO, however, is that the Exchange includes market centers against which it has declared self-help in its view of the NBBO.

Latent or Inaccurate Direct Feeds. Where the Exchange's systems detect problems with one or more Direct Feeds, the Exchange will immediately fail over to the SIP feed to calculate the NBBO for the market center(s) where the applicable Direct Feed is experiencing issues. Problems that lead to immediate fail over to the SIP feed may include a significant loss of information (*i.e.,* packet loss) or identifiable latency, among other things. The Exchange can also manually fail over to the SIP feed in lieu of Direct Feed data upon identification by a market center of an issue with its Direct Feed(s).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [26] in general, and furthers the objectives of Section 6(b)(5) of the Act [27] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange does not believe that this proposal will permit unfair discrimination among customers, brokers, or dealers because it will be available to all Users.

The Exchange believes that its proposal to describe the Exchange's use of data feeds removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity and transparency. The Exchange's proposal will enable investors to better assess the quality of the Exchange's execution and routing services. Other than the proposed modification to the construction of the PBBO, the proposal does not change the operation of the Exchange or its use of data feeds; rather

[20] *See* Rule 11.9(g).

[21] *See* supra note 13.

[22] *See* supra note 13.

[23] *See also* Question 5.03 in the ''Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS'' (last updated April 4, 2008) *available at http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm.*

[24] *See* Exchange Rule 11.19.

[25] 17 CFR 242.200(g); 17 CFR 242.201. On February 26, 2010, the Commission adopted amendments to Regulation SHO under the Act in the form of Rule 201, pursuant to which, among other things, short sale orders in covered securities generally cannot be executed or displayed by a trading center, such as the Exchange, at a price that is at or below the current NBB when a Short Sale Circuit Breaker is in effect for the covered security. *See* Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010). In connection with the adoption of Rule 201, Rule 200(g) of Regulation SHO was also amended to include a ''short exempt'' marking requirement. *See also* Securities Exchange Act Release No. 63247 (November 4, 2010), 75 FR 68702 (November 9, 2010) (extending the compliance date for Rules 201 and 200(g) to February 28, 2011). *See also* Division of Trading & Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, *www.sec.gov/divisions/marketreg/rule201faq.htm.*

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

it describes how, and for what purposes, the Exchange uses the quotes disseminated from data feeds to calculate the NBBO for a security for purposes of Regulation NMS, Regulation SHO and various order types that update based on changes to the applicable NBBO. The Exchange believes the additional transparency into the operation of the Exchange as described in the proposal will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. On the contrary, the Exchange believes the proposal would enhance competition because describing the Exchange's use of data feeds enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange filed the Initial Proposal with the Commission on July 15, 2014, and it was published for comment in the **Federal Register** on August 1, 2014. The Commission received three (3) written comment letters in response to the Initial Proposal.[28] In addition, one (1) comment letter was submitted to the Commission commenting on a companion EDGX filing.[29] The Exchange believes that the comments raised in these letters are either not directly related to the Exchange's proposal but instead raise larger market structure issues or are adequately addressed in this proposal, particularly as it relates to the Commission's request to describe the Exchange's use of data feeds for order handling and execution, order routing, and regulatory compliance. The Exchange further notes that the comments received regarding the Exchange's calculation of the PBBO are no longer applicable based on the proposed change described above related to the technology integration of the BGM Affiliated Exchanges.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[30] and Rule 19b–4(f)(6) thereunder.[31]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[32] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[33] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of the operative delay will allow the Exchange to immediately adopt rule text consistent with the Initial Proposal and offer certain functionality that is already available on EDGA and EDGX with respect to the use of information regarding orders on the applicable exchange's order book to construct the PBBO. In addition, the Exchange stated that waiver of the operative delay will allow it to continue to move towards a complete technology integration of the BGM Affiliated Exchanges to ensure stability of the System. For these reasons, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[34]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2015–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2015–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of

[28] *See* Letter from R.T. Leuchtkafer to the Commission, dated August 22, 2014 (SR–BATS–2014–029) (discussing the Exchange's market data feed practices). *See* Letter from Eric Scott Hunsader, Nanex, LLC, to the Commission, dated August 22, 2014 (SR–BATS–2014–029) (discussing the Exchange's use of NBBO as a defined term). *See* Letter from Donald Bollerman, Head of Market Operations, IEX ATS, to the Commission, dated September 25, 2014 (SR–BATS–2014–029) (SR–BYX–2014–012) (discussing the Exchange's calculation of the PBBO).

[29] *See* Letter from Suzanne Hamlet Shatto to the Commission, dated August 19, 2014 (SR–EDGX–2014–20) (discussing Dodd Frank principles).

[30] 15 U.S.C. 78s(b)(3)(A).

[31] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[32] 17 CFR 240.19b–4(f)(6).

[33] 17 CFR 240.19b–4(f)(6)(iii).

[34] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2015–04 and should be submitted on or before February 13, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01063 Filed 1–22–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74077; File No. SR–NASDAQ–2015–002]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Extranet Access Fee

January 16, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 5, 2015, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to add language to Rule 7025 (''Extranet Access Fee''), which includes a new section about the applicability of the Extranet Access Fee. This will conform the Exchange's Extranet Access Fee rule to that of other markets.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to add language to Rule 7025 (''Extranet Access Fee''), which includes a new section about the applicability of the Extranet Access Fee. This will conform the Exchange's Extranet Access Fee rule to that of other markets.[3]

Specifically, the Exchange proposes language in Rule 7025 to indicate that an Extranet Access connection with NASDAQ pursuant to Rule 7025 on the equity side as well as a connection pursuant to Chapter XV, Section 12 on the options side shall be assessed a total monthly access fee of $1,000 per recipient CPE Configuration [sic] This proposal conforms the Extranet Access Fee in Rule 7025 (equities) and the Extranet Access Fee in NASDAQ Options Market (''NOM'') Chapter XV, Section 12 (options), as well as the other NASDAQ Markets.

The Extranet Access Fee was introduced a decade ago on NASDAQ Rule 7025 as an equity fee.[4] The Extranet Access Fee was also introduced on NOM.[5] By this proposal, the Exchange normalizes the application of the Extranet Access Fee on NASDAQ and on NOM.[6]

As proposed, Rule 7025 will read as follows: ''Extranet providers that establish a connection with Nasdaq to offer direct access connectivity to market data feeds shall be assessed a monthly access fee of $1,000 per recipient Customer Premises Equipment (''CPE'') Configuration. If an extranet provider uses multiple CPE Configurations to provide market data feeds to any recipient, the monthly fee shall apply to each such CPE Configuration. For purposes of this Rule 7025, the term ''Customer Premises Equipment Configuration'' shall mean any line, circuit, router package, or other technical configuration used by an extranet provider to provide a direct access connection to Nasdaq market data feeds to a recipient's site. No extranet access fee will be charged for connectivity to market data feeds containing only consolidated data. For purposes of this rule, consolidated data includes data disseminated by the UTP SIP. Extranet providers that establish a connection with Nasdaq pursuant to this Rule 7025 as well as a connection pursuant to Chapter XV, Section 12 shall be assessed a total monthly access fee of $1,000 per recipient CPE Configuration.'' The proposal conforms NASDAQ Rule 7025 to NOM Chapter XV, Section 12 and makes them substantively identical.[7] The proposal also makes it clear that if an extranet provider establishes a connection on NASDSAQ [sic] (equities) as well as on NOM (options), the extranet provider will not need to pay a double $1,000 monthly access fee per CPE, but rather only one total monthly access fee of $1,000 per CPE.

The proposed [sic] Extranet Access Fee will continue to be used to help recoup the Exchange's costs associated with maintaining multiple extranet connections with multiple providers. These costs include those associated with overhead and technology infrastructure, administrative, maintenance and operational costs. Since the inception of Extranet Access

[35] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange, NASDAQ OMX PHLX LLC (''Phlx''), and NASDAQ OMX BX, Inc. (''BX'') are self-regulatory organizations (''SROs'') that are wholly owned subsidiaries of The NASDAQ OMX Group, Inc. (''NASDAQ OMX''). The Exchange, NOM (a facility of the Exchange), BX, BX Options (a facility of BX), Phlx, and PSX (a facility of Phlx) (together with the Exchange known as the ''NASDAQ Markets''), are independently filing proposals to conform their respective Extranet Access Fee rules to NASDAQ Rule 7025.

[4] *See* Securities Exchange Act Release Nos. 50483 (October 1, 2004), 69 FR 60448 (October 8, 2004) (SR–NASD–2004–118) (establishing the Extranet Access Fee on NASDAQ); and 71199 (December 30, 2013), 79 FR 686 (January 6, 2014) (SR–NASD [sic]–2013–159) (notice of filing and immediate effectiveness increasing the Extranet Access Fee to $1,000).

[5] *See* SR–SR– [sic] NASDAQ–2015–001 [sic] (immediately effective filing on January 2 [sic], 2015, establishing the Extranet Access Fee on NOM pursuant to Chapter XV, Section 12).

[6] As noted, the NASDAQ Markets are independently filing proposals to conform their respective Extranet Access Fee.

[7] The Exchange notes that while NOM Chapter XV, Section 12 and NASDAQ Rule 7025 each contain some language particular to the relevant exchange, with this proposal the language of the two rules is substantively identical. For example, language in Rule 7025 that refers to consolidated data disseminated by the UTP SIP is not reflected in NOM Chapter XV, Section 12, as it deals with options.

there have been numerous network infrastructure improvements and administrative controls enacted. Additionally, the Exchange has implemented automated retransmission facilities for most of its data clients that benefit extranet clients by reducing operational costs associated with retransmissions.

As the number of extranets has increased, the management of the downstream customers has expanded and the Exchange has had to ensure appropriate reporting and review processes, which has resulted in a greater cost burden on the Exchange over time. The proposed [sic] fee will also help to ensure that the Exchange is better able to closely review reports and uncover reporting errors via audits thus minimizing reporting issues.[8] The network infrastructure has increased in order to keep pace with the increased number of products, which, in turn, has caused an increased administrative burden and higher operational costs associated with delivery via extranets.

Thus, subsequent to the proposal extranet providers that establish a connection with the Exchange to offer direct access connectivity to market data feeds shall continue to be assessed a monthly access fee of $1,000 per CPE Configuration. If, as discussed, an extranet provider has a connection on the NASDAQ side (equity) and NOM side (options), the provider will not be charged double. The proposal would make the Exchange's Extranet Access Fee in Rule 7025 work the same as the equivalent fee in NOM Chapter XV, Section 12 NASDAQ [sic], and complete the effort to conform the two rules, as well as the equivalent rules of the NASDAQ Markets.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and with Section 6(b)(4) of the Act,[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls.

The Exchange believes that its proposal to add language in Rule 7025 regarding the applicability of the Extranet Access Fee if an extranet provider has a connection on both the equity side through NASDAQ and the options side through NOM conforms the rules of the entities and is consistent with the Act.

All similarly situated extranet providers, including the Exchange operating its own extranet, that establish an extranet connection with the Exchange to access market data feeds from the Exchange are subject to the same fee structure.[11] The fee will help the Exchange to offset some of the rising overhead and technology infrastructure, administrative, maintenance and operational costs it incurs in support of the service. If such costs are covered, the service may provide the Exchange with a profit. As such, the Exchange believes that the proposal is reasonable and notes that this proposal conforms similarly-situated Extranet Access Fee rules on NOM options and NASDAQ equities. The extranet costs are separate and different from the colocation facility that is able to recoup these fees by charging for servers within the associated data centers. Additionally, the Exchange believes that the proposed change is equitable and not unreasonably discriminatory. The monthly fee is assessed uniformly to all extranet providers that establish a connection with the Exchange to offer direct access connectivity to market data feeds, and is the same for all at $1,000 per recipient CPE Configuration. Thus, any burden arising from the fees is necessary in the interest of promoting the equitable allocation of a reasonable fee. Moreover, firms make decisions on how much and what types of data to consume on the basis of the total cost of interacting with the Exchange or other markets and, of course, the Extranet Access Fee is but one factor in a total platform analysis.

The proposal provides for uniform application of the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is thereby consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

The proposed [sic] fees are applied uniformly among extranet providers, which are not compelled to establish a connection with the Exchange to offer access connectivity to market data feeds. For these reasons, any burden arising from the fees is necessary in the interest of promoting the equitable allocation of a reasonable fee. Additionally, firms make decisions on how much and what types of data to consume on the basis of the total cost of interacting with the Exchange or other exchanges and, of course, the Extranet Access Fee is but one factor in a total platform analysis.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[12] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2015–002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

[8] The Exchange will inform extranet providers of their reporting responsibilities via its public Web site. This will include, as an example, reporting CPE usage.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

[11] For example, NASDAQ Technology Services, a subsidiary of the Exchange, pays the applicable fee(s) to the Exchange for services covered under the Extranet Access Fee.

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2015–002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2015–002, and should be submitted on or before February 13, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01067 Filed 1–22–15; 8:45 am]

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[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74083; File No. SR–NYSEMKT–2015–01]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Sections 140 and 141 of The NYSE MKT Company Guide To Adopt A New Flat Annual Fee of $5,000 for Listed Warrants

January 16, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on January 2, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Sections 140 and 141 of the NYSE MKT Company Guide (the ''Company Guide'') to adopt a new flat annual fee of $5,000 for listed warrants with effect from January 1, 2015. The Exchange also proposes to amend Section 140 of the Company Guide to make clear that the initial fee waiver for securities transferring from another national securities exchange or dual listing on the Exchange are applicable to all categories of securities. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Sections 140 and 141 of the Company Guide to adopt a new flat annual fee of $5,000 for listed warrants with effect from January 1, 2015. The Exchange also proposes to amend Section 140 of the Company Guide to make clear that the initial fee waiver for securities transferring from another national securities exchange or dual listing on the Exchange are applicable to all categories of securities.

Currently, Section 140 of the Company Guide provides that listed warrants are subject to the same initial and annual fees as common stock. The Exchange proposes to eliminate the reference to the annual fees for warrants in Section 140 and to add a new subparagraph of Section 141 which will establish a flat annual fee for warrants of $5,000 with effect from January 1, 2015. The Exchange notes that Section 105 of the Company Guide, which establishes initial listing standards for warrants, provides that warrants qualify for listing only if the common stock for which the warrants are exercisable are listed on the Exchange or another national securities exchange. Currently, the common stock into which all warrants listed on the Exchange are exercisable is listed either on the Exchange itself or on the NYSE and (while Section 105 would permit the listing of warrants exercisable for common stock listed on any national securities exchange, including those unaffiliated to NYSE MKT) the Exchange anticipates this will generally remain the case going forward. NYSE Regulation is responsible for all oversight of the compliance with applicable listing rules by issuers and securities listed on both the Exchange and the NYSE. Almost all regulatory obligations imposed upon listed issuers in connection with a warrant listing, including with respect director independence, also arise in connection with the issuer's common stock listing. Accordingly, because NYSE Regulation is already conducting almost all of the regulatory oversight necessary in connection with a warrant listing because the issuers listing warrants on the Exchange also have their common stock listed on the Exchange or the NYSE, the incremental resources

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

devoted to the regulation of the listed warrants are very limited and the Exchange therefore believes it is reasonable to charge only a modest fixed annual fee for the listing of warrants.

Section 140 of the Company Guide provides a waiver of the initial listing fees to companies transferring their securities from another national securities exchange or dual listing their securities on the Exchange that remain listed on another national securities exchange. The Exchange has always interpreted this waiver as applying to all categories of securities listed on the Exchange and not just to common stocks or common stock equivalents. The Exchange proposes to amend the language of the rule to make this consistent interpretation more transparent.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4)[5] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5)[6] of the Act in that it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that amending Section 141 of the Company Guide to provide a modest flat annual fee for listed warrants is reasonable because the resulting fees would better reflect the Exchange's costs related to such listing. In this regard, the Exchange notes that all issuers currently listing warrants on the Exchange also list their common stock on the Exchange itself or on the NYSE. The Exchange further notes that the majority of costs associated with providing services to these issuers as well as the Exchange's regulatory burden arise as a result of their common stock listing and there is only a minimal incremental cost as a result of their warrant listings. Accordingly, the Exchange believes it is appropriate to charge a modest flat fee for warrant listings. The Exchange further believes that the proposed annual fees are equitably allocated because all issuers will be subject to the same $5,000. The amendment to Section 140 to clarify the treatment for initial listing fee purposes of warrants transferred from another national securities exchange or dual listed on the Exchange simply makes the existing interpretation of the rule more transparent and does not affect in any way the amount of fees collected.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to ensure that the fees charged by the Exchange accurately reflect the services provided and benefits realized by listed companies. The proposed fee increases will apply to all issuers listed on the Exchange, therefore they will be equitably allocated amongst all issuers and will not be unfairly discriminatory towards an individual issuer or class of issuers. Further, because issuers have the option to list their securities on a different national securities exchange, the Exchange does not believe that the proposed fee changes impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[7] of the Act and subparagraph (f)(2) of Rule 19b–4[8] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[9] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2015–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2015–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2015–01 and should be submitted on or before February 13, 2015.

[4] 15 U.S.C. 78f(b).
[5] 15 U.S.C. 78f(b)(4).
[6] 15 U.S.C. 78f(b)(5).
[7] 15 U.S.C. 78s(b)(3)(A).
[8] 17 CFR 240.19b–4(f)(2).
[9] 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01069 Filed 1–22–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74082; File No. SR–ICC–2014–19]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Formalize the ICC Operational Risk Management Framework

January 16, 2015.

On November 18, 2014, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–ICC–2014–19 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on December 2, 2014.[3] The Commission did not receive comments on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day from the publication of notice of filing of this proposed rule change is January 16, 2015. The Commission is extending this 45-day time period.

ICC is proposing to update and formalize ICC's Operational Risk Management Framework. In light of the fact that the proper management and documentation of the systems to be maintained in order to formalize the processes for assessing operational risk can be detailed and require specific knowledge of the risks involved, the Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates March 2, 2015, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–ICC–2014–19).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01068 Filed 1–22–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74088; File No. SR–NYSEArca–2014–117]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Remove the Exchange's Quote Mitigation Plan as Provided by Commentary .03 to Exchange Rule 6.86

January 16, 2015.

I. Introduction

On October 2, 2014, NYSE Arca, Inc., (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to remove the Exchange's quote mitigation plan as provided by Commentary .03 to NYSE Arca Rule 6.86. The proposed rule change was published for comment in the **Federal Register** on October 21, 2014.[3] On December 2, 2014, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On January 8, 2015, the Exchange submitted a letter in further support of the proposal.[6] The Commission received no comments on the proposal. This order institutes proceedings under Section 19(b)(2)(B) of the Act[7] to determine whether to approve or disapprove the proposal.

II. Description of the Proposal

In 2007, the Exchange adopted a quote mitigation plan in connection with the Penny Pilot Program.[8] According to the Exchange, the quote mitigation plan was designed to reduce the number of quotation messages sent by the Exchange to the Options Price Reporting Authority (''OPRA'') by only submitting quote messages for ''active'' series.[9] The Exchange defines active series under the quote mitigation plan in Commentary .03 to Exchange Rule 6.86 as: (i) Series that have traded on any options exchange in the previous 14 calendar days; or (ii) series that are solely listed on the Exchange; or (iii) series that have been trading ten days or less, or; (iv) series for which the Exchange has received an order.[10] In addition, under the Exchange's quote mitigation plan, the Exchange may define a series as active on an intraday basis if: (i) The series trades at any options exchange; (ii) the Exchange receives an order in the series; or (iii) the Exchange receives a request for quote from a customer in that series.[11]

The Exchange proposes to remove its quote mitigation plan from its rules by deleting Commentary .03 to Exchange Rule 6.86.[12] The Exchange believes that its quote mitigation plan is no longer necessary primarily for three reasons. First, the Exchange states that its

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–73684 (Nov. 25, 2014), 79 FR 71495 (Dec. 2, 2014) (SR–ICC–2014–19).

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73362 (October 15, 2014), 79 FR 62983 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 73720, 79 FR 72747 (December 8, 2014). The Commission designated January 19, 2014, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] *See* Letter from Elizabeth King, Secretary & General Counsel, Exchange, to Kevin O'Neill, Deputy Secretary, Commission, dated January 8, 2015 (''NYSE Arca Letter'') *available at http://www.sec.gov/comments/sr-nysearca-2014-117/nysearca2014117.shtml.*

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Securities and Exchange Release No. 55156 (January 23, 2007), 72 FR 4759 (February 1, 2007) (Order Granting Approval of SR–NYSEArca–2006–73) (''Quote Mitigation Approval Order''). The Penny Pilot Program permitted certain options classes to be quoted in pennies. *See id.*

[9] *See* Notice, *supra* note 3, at 62983.

[10] *See* Exchange Rule 6.86, Commentary .03, *and* Notice, *supra* note 3, at 62983.

[11] *See id.*

[12] In addition, the Exchange proposes to amend paragraphs (b)(1) and (b)(2) of Exchange Rule 6.86 to delete references to the ''Quote Mitigation Plan,'' which refer to the quote mitigation plan set forth in Commentary .03 to Exchange Rule 6.86. *See* Notice, *supra* note 3, at 62984.

incorporation of select provisions of the Options Listing Procedures Plan (''OLPP'') [13] in Exchange Rule 6.4A serves to reduce the potential for excess quoting because the OLPP limits the number of options series eligible to be listed, which, according to the Exchange, reduces the number of options series a market maker would be obligated to quote.[14] Second, the Exchange states its view that Exchange Rule 6.37B Commentary .01, which removes certain options series from market makers' continuous quoting obligations, reduces the number of quote message traffic that the Exchange sends to OPRA.[15] The Exchange states that reliance on the OLPP, via Exchange Rule 6.4A, and the refined market maker quoting obligations, pursuant to Commentary .01 to Exchange Rule 6.37B, is sufficient as a quote mitigation plan.[16] Third, the Exchange states that both its systems capacity and OPRA's systems capacity are more than sufficient to accommodate any additional increase in quote traffic that might be sent to OPRA as a result of the deletion of the quote mitigation strategy.[17] The Exchange represents that it continually assesses its capacity needs and ensures that the capacity that it requests from OPRA is sufficient and compliant with the requirements established in the OPRA Capacity Guidelines.[18]

The Exchange represents that it has in place certain measures that the Exchange believes serve as additional safeguards against excessive quoting.[19] According to the Exchange, these safeguards include monitoring and alerting market makers disseminating an unusual number of quotes, a business plan designed to ensure that new listings are actively traded,[20] and a ratio threshold fee designed to encourage the efficient use of orders.[21]

The Exchange proposes to announce the implementation date of the proposed rule change by Trader Update and publish such announcement no later than 60 days following the effective date of this proposal.[22]

III. Proceedings to Determine Whether To Approve or Disapprove SR–NYSEArca–2014–117 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [23] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[24] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to the consistency of the proposed rule change, as supplemented by the NYSE Arca Letter,[25] with Section 6(b)(5) of the Act, which require that the rules of a national securities exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[26]

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the concerns identified above, as well as any other concerns they may have with the proposed rule change. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[27] Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by February 13, 2015. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by February 27, 2015.

The Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) [28] or any other provision of the Act, or the rules and regulations thereunder. The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposed rule change, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on the following:

1. As described above, the Exchange adopted its quote mitigation plan as provided in Commentary .03 to Exchange Rule 6.86 in connection with its adoption of the Penny Pilot Program, which permits quoting of certain options series in certain increments.[29] The Commission has previously noted

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[13] *See* Amendment to Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act *available at http://www.theocc.com/clearing/industry-services/olpp.jsp* (providing for the most current OLPP). *See also* Securities and Exchange Release No. 44521 (July 6, 2001), 66 FR 36809 (July 13, 2001) (order approving the OLPP).

[14] *See* Notice, *supra* note 3, at 62984. *See also* Securities and Exchange Release No. 61977 (April 23, 2010), 75 FR 22884 (April 30, 2010) (in which the Exchange adopted select provisions of the OLPP into Exchange Rule 6.4A).

[15] Commentary .01 to Exchange Rule 6.37B provides that Exchange market makers continuous quoting obligations do not apply ''to adjusted option series, and series with a time to expiration of nine months or greater, for options on equities and Exchange Traded Fund Shares, and series with a time to expiration of twelve months or greater for Index options.'' *See also* Notice, *supra* note 3, at 62984.

[16] *See id.* The Exchange states its view that limiting the number of options series listed on the Exchange is preferable to suppressing the quotes of inactive options series, as required under current Exchange Rule 6.86, because all quotes sent by Exchange market makers are actionable even if not displayed. *See id.*

[17] *See* Notice, *supra* note 3, at 62984.

[18] *See id.*

[19] *See id.*

[20] *See id.* at n.13 (citing to NYSE Arca Options Listing Policy Statement, *available at, http://www.nyse.com/pdfs/TraderNoticeArcaLOPSChanges092713.pdf*).

[21] *See id.* at n.14 (citing to NYSE Arca Options Fee Schedule, *available at, https://www.theice.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf*).

[22] *See id.* at 62984.

[23] 15 U.S.C. 78s(b)(2)(B).

[24] *Id.* Section 19(b)(2)(B) of the Exchange Act also provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. *See id.* The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding. *See id.*

[25] *See* NYSE Arca Letter, *supra* note 6.

[26] 15 U.S.C. 78f(b)(5).

[27] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[28] *Id.*

[29] *See supra* note 8 and accompanying text.

that the Penny Pilot Program has contributed to an increase in quotation message traffic from the options markets.[30] In approving the extension and expansion of the Penny Pilot Program in 2009, the Commission relied, in part, on the Exchange's representation that it would continue to use quote mitigation strategies that would continue to mitigate quotation traffic sent to OPRA.[31]

As noted above, the Exchange believes that its quote mitigation strategy is no longer necessary because: (1) The Exchange has incorporated select provisions of the OLPP in Exchange Rule 6.4A, which the Exchange believes limits the number of series eligible to be listed; (2) current Exchange Rule 6.37B Commentary .01 removes certain options series from market makers' continuous quoting obligations, which the Exchange believes reduces the number of quote messages that the Exchange sends to OPRA; and (3) both the Exchange's systems capacity and OPRA's systems capacity are more than sufficient to accommodate any additional increase in quote traffic that might be sent to OPRA as a result of the deletion of the quote mitigation strategy.[32] Do commenters believe that reliance on the Exchange's current rules and the existing systems capacity of the Exchange and OPRA are sufficient or insufficient means to mitigate quote message traffic from the Exchange to OPRA? Please explain.

2. What are commenters' views on the impact, if any, that might result from the Exchange's proposal to remove its current quote mitigation plan as provided in Commentary .03 to Exchange Rule 6.86? For example, what are commenters' views on the impact the Exchange's proposal would have, if any, on OPRA's system capacity? Please explain. Or, what are commenters' views on the impact the Exchange's proposal would have on market participants using OPRA and/or the Exchange's quotation message feeds? Please explain.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2014–117 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2014–117. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2014–117 and should be submitted on or before February 13, 2015. Rebuttal comments should be submitted by February 27, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01108 Filed 1–22–15; 8:45 am]

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[30] *See* Securities and Exchange Release No. 60711 (September 23, 2009), 74 FR 49419, 49422 (September 28, 2009) (Order Granting Partial Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 3 thereto, Amending NYSE Arca Rule 6.72 and Expanding the Penny Pilot Program).

[31] *See id.* The Commission stated: ''While the Commission anticipates that NYSE Arca's proposed expansion of the Pilot Program will contribute to further increases in quotation message traffic, the Commission believes that NYSE Arca's proposal is sufficiently limited such that it is unlikely to increase quotation message traffic beyond the capacity of market participants' systems and disrupt the timely receipt of quote information. NYSE Arca has proposed to roll out the additional 300 classes over time, in groups of 75 classes each quarter beginning on October 26, 2009. The Commission further notes that a June 2, 2009 sustained message traffic peak of 852,350 messages per second reported by OPRA is still well below OPRA's current messages per second capacity limit of 2,050,000. Moreover, NYSE Arca has adopted and will continue to utilize quote mitigation strategies that should continue to mitigate the expected increase in quotation traffic.'' *Id.*

[32] *See supra* notes 13–18 and accompanying text.

[33] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74078; File No. SR–NASDAQ–2015–004]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Membership Application

January 16, 2015.

Pursuant to Section 19(b)(1) of the Securities Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 5, 2015, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to amend Rule 1013 titled ''New Member Application'' to include an expedited application process for firms that are already approved members of NASDAQ OMX PHLX LLC (''PHLX'').

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for,the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend NASDAQ Rule 1013(a)(5), entitled Applicants That Are Members of an Association or Another Exchange, to permit an expedited review for new member applications seeking NASDAQ membership provided those applicants are approved members of PHLX.

Specifically, Exchange Rule 1013(a)(5)(C) currently permits the Exchange to accept applicants that gained membership at Financial Industry Regulatory Authority (''FINRA'') or NASDAQ OMX BX, Inc. (''BX'') when considering a NASDAQ new member application. Applicants who are approved members of FINRA or BX are eligible for an abbreviated waive-in application eliminating the submission and review of duplicative supplemental material that has already been submitted and reviewed in connection with a FINRA or BX new member application.

At this time, the Exchange proposes to extend the abbreviated application process already in place for approved FINRA and/or BX members to PHLX members. The Exchange notes that the PHLX qualifications are the same as those applicable to NASDAQ membership requirements. PHLX approved members seeking NASDAQ membership will be required to submit a fully executed Waive-In Membership Application and Membership Agreement but will not be required to submit any duplicative documentation that was previously provided as part of the PHLX application. These PHLX members would still be required to provide additional information if there has been a material change in status from its [sic] original application with PHLX. Applicants will be required to attest that the information provided as part of previously conducted new membership review remains complete and accurate.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [3] in general, and furthers the objectives of Section 6(b)(5) of the Act [4] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Today, the NASDAQ Membership Department performs similar functions when reviewing new member applications for NASDAQ, BX and PHLX.[5] The Membership Department reviews: Applicant business plans, clearing arrangements, FOCUS reports, organizational charts, and written supervisory procedures for applicants desiring membership in any of the aforementioned markets. These membership requirements include, but are not limited to, review of registration as a Broker Dealer with the Commission, a net capital review, qualification of associated persons and examining written supervisory procedures. The same material is considered for each new member review conducted by FINRA on behalf of NASDAQ.

NASDAQ believes that this proposed amendment is consistent with its current practices today when reviewing applications for members of BX and FINRA. NASDAQ proposes this rule change to harmonize its affiliated exchanges' rules to provide applicants similar application procedures on its markets. The PHLX new member review is consistent with the NASDAQ new member review. NASDAQ believes that applicants that are members of PHLX are eligible for the waive-in process when seeking membership on NASDAQ similar to BX and FINRA members.

NASDAQ believes that the proposed rule change would eliminate the duplicate review for prospective NASDAQ applicants that were approved for membership by PHLX. The waive-in process will promote efficiency with respect to the Exchange's membership review process and reduce the burden on applicants that have already been approved for membership on PHLX by reducing the duplicative information and documentation required to be provided to the Exchange. As a result, Exchange staff will be able to focus its regulatory efforts on reviewing any material changes or new information that may affect the applicant's eligibility for Exchange membership.

This proposed rule change does not affect the protection of investors as NASDAQ will maintain the vigorous membership review that is conducted today when reviewing PHLX members applications.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed waive-in process for approved PHLX members will not impose any burden on competition, but rather it will remove unnecessary burdens that currently exist for PHLX member applicants seeking NASDAQ membership. The proposal will eliminate the redundant review process for PHLX members that currently does not exist for FINRA and BX members applying to become NASDAQ members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[6] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] Today, FINRA conducts the new member application reviews for NASDAQ and BX pursuant to a 17d–2 agreement and Regulatory Services Agreement. These application reviews are administered by FINRA and subject to NASDAQ's final review and decision.

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2015–004 on the subject line.

Paper Comments

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–NASDAQ–2015–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2015–004 and should be submitted on or before February 13, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01066 Filed 1–22–15; 8:45 am]

BILLING CODE 8011–01–P

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74084; File No. SR–ICC–2015–002]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change To Revise the ICC Treasury Operations Policies and Procedures

January 16, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder[2] notice is hereby given that on January 6, 2015, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to revise the ICC Treasury Policies and Procedures to provide for the use of a Federal Reserve Account, to provide for the use of a committed repo facility, and to provide for engagement of outside investment managers to invest guaranty fund and margin cash pursuant to ICC's USD and Euro investment guidelines. These revisions do not require any changes to the ICC Clearing Rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed revisions to ICC's Treasury Operations Policies and Procedures are intended to provide for the use of a Federal Reserve Account, to provide for the use of a committed repo facility, and to provide for USD and Euro investment guidelines for use by outside investment managers.

ICC believes such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. The proposed revisions are described in detail as follows.

ICC has revised its Treasury Operations Policies and Procedures to demonstrate how ICC would utilize a Federal Reserve Account for cash and collateral management. ICC has applied for a Federal Reserve Account to hold both USD cash and US Treasuries. In its application, ICC requested separate accounts for house origin funds and customer origin funds. Should ICC be approved for a single account origin, ICC will utilize the Federal Reserve Accounts to hold house collateral, and customer collateral will continue to be held in commercial banks. Should ICC be approved for an additional account origin, ICC will utilize the second origin to hold customer collateral at the Federal Reserve. With respect to the potential utilization of a Federal Reserve cash Account, ICC plans to use this account as a depository account, in which cash will be consolidated on a daily basis and held overnight. ICC will continue using its commercial bank accounts for Clearing Participant money movements, and the net excess/deficit will be deposited to/withdrawn from the Federal Reserve cash Account as necessary. With respect to potential utilization of a Federal Reserve securities Account, ICC would use this account as a custody account to hold US Treasuries deposited by Clearing Participants with ICC's commercial banks.

Additionally, ICC has revised its Treasury Operations Policies and Procedures to provide for use of a committed repurchase (''repo'') facility. ICC has established a committed repo facility that will allow ICC to consider US Treasury securities deposited at ICC as an additional qualifying liquidity resource.[3] The facility can be used to convert US Treasuries into cash when the sale of pledged securities needed for liquidity cannot be settled on a timely or same-day basis. Specifically, the facility can be used to generate temporary liquidity through the sale and agreement to repurchase securities pledged by ICC Clearing Participants to satisfy their Initial Margin and Guaranty

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] As defined under Commodity Futures Trading Commission Regulation 39.33(c).

Fund requirements. The facility will include counterparties that are banks and/or broker dealers (which may include ICC Clearing Participants and/or their affiliates) that each provide a committed repo line to ICC. Committed repo will be subject to a haircut which will be the greater of 5% or the haircut that central banks employ for repo transactions using the same or similar purchased securities.

The committed repo facility can be used on an open or overnight basis. The open repo will be closed as soon as the ICC Treasury Department (''ICC Treasury'') can facilitate the sale and settlement of the securities involved in the repo transaction. USD repo is settled delivery versus payment (''DVP'') on a bilateral basis. In order to initiate a committed repo transaction, ICC Treasury can send an email to the counterparty with a list of the securities that will be delivered. The counterparty will reply confirming the trade and providing the ''purchase amount'' of the repo transaction. The purchase amount will be equal to the mark-to-market (''MTM'') of the securities less the haircut. The repo details will then be sent to ICC's custodian for settlement. ICC Treasury will monitor bank activity to ensure settlement is complete. Once ICC Treasury has arranged for the ultimate sale of the securities involved in the repo transaction, it will close-out the repo transaction(s).

Finally, ICC has revised its Treasury Operations Policies and Procedures to provide for the engagement of outside investment managers to invest guaranty fund and margin cash pursuant to ICC's USD and Euro investment guidelines. ICC's current investment guidelines have been extended to apply to outside investment managers, and such investment guidelines are set forth in in the ICC Treasury Operations Policies and Procedures. In general ICC's cash investment guidelines provide for the investment of cash in overnight reverse repo with high quality sovereign debt as collateral, and such guidelines apply to the investment of both USD and Euro cash. The investment guidelines provide that if the investment manager cannot place 100% of the allocated cash in overnight reverse repo, backup investments will be in term reverse repo and direct investment in high quality sovereign debt. With respect to Euro cash, investment in reverse repo transactions and non-US sovereign debt will be utilized only with respect to house origin cash, and shall not be utilized with respect to customer origin cash pursuant to Commodity Futures Trading Commission regulations. ICC's USD investment guidelines provide for use by outside investment managers with respect to USD cash that is not otherwise invested pursuant to the ICC Treasury Operations Policies and Procedures. These revisions to the Treasury Operations Policies and Procedures do not require any operational changes.

Section 17A(b)(3)(F) of the Act[4] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed revisions to the ICC Treasury Operations Policies and Procedures are consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17A(b)(3)(F),[5] because ICC believes that the proposed rule change will facilitate the prompt and accurate settlement of swaps and contribute to the safeguarding of securities and funds associated with swap transactions which are in the custody or control of ICC or for which it is responsible. The changes to provide for the use of a committed repo facility are designed to enhance ICC's liquidity resources. Further, the changes to provide for the use of a Federal Reserve Account and to provide for engagement of outside investment managers to invest guaranty fund and margin cash pursuant to ICC's USD and Euro investment guidelines are designed to further ensure the reliable investment of assets in ICC's control with minimal risk. As such, the proposed rule change will facilitate the prompt and accurate settlement of swaps and contribute to the safeguarding of customer funds and securities within the control of ICC within the meaning of Section 17A(b)(3)(F)[6] of the Act.

In addition, the proposed revisions to the ICC Treasury Operations Policies and Procedures are consistent with the relevant requirements of Rule 17Ad–22.[7] In particular, the use of a Federal Reserve Account and the engagement of outside investment managers to invest guaranty fund and margin cash pursuant to ICC's USD and Euro investment guidelines will enhance ICC's ability to hold assets in a manner that minimizes risk of loss or of delay in its access to such assets and will result in investment arrangements with minimal credit, market and liquidity risks. Furthermore, engagement of an outside investment manager will facilitate the securitization of guaranty fund and margin cash held by ICC. Such changes are therefore reasonably designed to meet the requirements of Rule 17Ad–22(d)(3).[8] Additionally, the use of a committed repo facility will further ensure that ICC maintains sufficient financial resources at all times to meet the requirements set forth in Rule 17Ad–22(b)(3).[9]

B. Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed revisions would have any impact, or impose any burden, on competition. The revisions to ICC's Treasury Operations Policies and Procedures to provide for the use of a Federal Reserve Account, to provide for the use of a committed repo facility, and to provide for engagement of outside investment managers to invest guaranty fund and margin cash pursuant to ICC's USD and Euro investment guidelines apply uniformly across all Clearing Participants. Therefore, ICC does not believe the proposed revisions impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] *Id.*

[6] *Id.*

[7] 17 CFR 240.17Ad–22.

[8] 17 CFR 240.17Ad–22(d)(3).

[9] 17 CFR 240.17Ad–22(b)(3).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2015–002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICC–2015–002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at *https://www.theice.com/clear-credit/regulation.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2015–002 and should be submitted on or before February 13, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01070 Filed 1–22–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74075; File No. SR–BYX–2015–03]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Clarify the Use of Certain Data Feeds

January 15, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on January 7, 2015, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to clarify for Members [3] and non-Members the Exchange's use of certain data feeds for order handling and execution, order routing, and regulatory compliance. On July 15, 2014, the Exchange filed a proposed rule change that described its use of data feeds for order handling and execution, order routing, and regulatory compliance (the ''Initial Proposal'') with the Securities and Exchange Commission (the ''Commission'').[4] The Exchange submits this supplemental filing in order to further clarify for Members and non-Members the Exchange's use of certain data feeds and to make one modification with respect to the usage of such data feeds as previously described.[5]

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

On June 5, 2014, Chair White requested that all national securities exchanges develop proposed rule changes to disclose their use of data feeds to execute and route orders and comply with regulatory requirements.[6] In addition, on June 20, 2014, the Commission's Division of Trading and Markets requested that the Exchange file proposed rule changes that disclose its usage of particular market data feeds, among other things.[7] In response to these requests, the Exchange filed the Initial Proposal with the Commission on July 15, 2014.[8] The Exchange submits this supplemental filing to further clarify for Members and non-Members the Exchange's use of certain data feeds for order handling and execution, order

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 72687 (July 28, 2014), 79 FR 44926 (August 1, 2014) (SR–BYX–2014–012). Other national securities exchange filed similar proposals. *See, e.g.,* Securities Exchange Act Release Nos. 72710 (July 29, 2014), 79 FR 45511 (August 5, 2014) (SR–NYSE–2014–38), and 72684 (July 28, 2014), 79 FR 44956 (August 1, 2014) (SR–NASDAQ–2014–072).

[5] The Exchange understands that other national security exchanges will file similar proposed rule changes with the Commission to further describe their use of data feeds for order handling and execution, order routing, and regulatory compliance.

[6] *See* Mary Jo White, Chair, Securities and Exchange Commission, Speech at Sandler O'Neill & Partners L.P. Global Exchange and Brokerage Conference (June 5, 2014).

[7] *See* letter from Stephen Luparello, Director, Division of Trading and Markets, Securities and Exchange Commission, to Joe Ratterman, Chief Executive Officer, BATS Global Markets, Inc., dated June 20, 2014.

[8] *See supra* note 6.

routing, and regulatory compliance.[9] In addition, the Exchange proposes to modify the way that it constructs the Pegged NBBO, as further described below. To ensure proper context and a complete filing describing the Exchange's procedures in this area, the Exchange has repeated all relevant information from the Initial Proposal and supplemented such information as necessary.

Order Handling and Execution

In order to calculate the national best bid and offer (''NBBO'') in its Matching Engine (the ''ME''), the Exchange uses quotes disseminated by market centers through proprietary data feeds (generally referred to as ''Direct Feeds'') as well as by the Securities Information Processors (''SIP''). The ME uses quotes disseminated from SIP feeds for the Chicago Stock Exchange, Inc., NYSE MKT LLC and the Financial Industry Regulatory Authority's Alternative Display Facility. The ME consumes the Direct Feeds from every other protected venue, including the Exchange's affiliates, BATS Exchange, Inc. (''BZX''), EDGA Exchange, Inc. (''EDGA''), and EDGX Exchange, Inc. (''EDGX'').

The ME will include odd lot quotations in its calculation of the NBBO depending on the source of the quotation. Where a protected market center aggregates odd lot quotations at a single price level into round lot quotations and publishes such aggregated quotations to the SIPs, then the ME will include those odd lot quotations in its calculation of the NBBO. In addition, where a protected market center aggregates odd lot quotations across more than one price level and publishes such aggregated quotations to the SIPs, then the ME will include those odd lot quotations in its calculation of the NBBO.

In addition to receiving Direct Feeds and SIP feeds, the ME's calculation of the NBBO may be adjusted based on orders sent to other venues with protected quotations, execution reports received from those venues, and certain orders received by the Exchange (collectively ''Feedback''). The Exchange does not include its quotes in the calculation of the Exchange's NBBO because the system is designed such that all incoming orders are separately compared to the Exchange's Best Bid or Offer and the Exchange calculated NBBO, which together create a complete view of the NBBO, prior to display, execution, or routing.

Feedback from the receipt of Intermarket Sweep Orders (''ISOs'') with a time-in-force of Day (''Day ISOs'') and feedback from the Exchange's routing broker/dealer, BATS Trading, Inc., (''BATS Trading''), defined respectively as ''Day ISO Feedback'' and ''Router Feedback,'' are used to augment the market data received by Direct Feeds and the SIP feeds as further described below. The Exchange's ME will update the NBBO upon receipt of a Day ISO. When a Day ISO is posted on the BATS Book,[10] the ME uses the receipt of a Day ISO as evidence that the protected quotes have been cleared, and the ME does not check away markets for equal or better-priced protected quotes.[11] The ME will then display and execute non-ISO orders at the same price as the Day ISO.

All Feedback expires as soon as: (i) One (1) second passes; (ii) the Exchange receives new quote information; or (iii) the Exchange receives updated Feedback information. With the exception of Day ISO Feedback, the Exchange currently generates Feedback where an order was routed using a routing strategy offered by the Exchange that accesses protected quotes of trading venues on the System routing table (''Smart Order Routing'').[12]

The Exchange currently determines the price at which a Pegged Order,[13] Mid-Point Peg Order,[14] Market Maker Peg Order,[15] or Supplemental Peg Order[16] is to be pegged based on the Pegged NBBO (''PBBO''). The Exchange's Matching Engine calculates the PBBO using the Exchange's quotes from the SIP feeds, and quotes disseminated from the same Direct Feeds, SIP feeds, and Feedback used by the ME for its NBBO calculation. As noted above, the Exchange does not otherwise utilize quotations from its local book in calculating the NBBO, and thus, the quotation from the SIP has been necessary for pegged orders in order to generate a view of the Exchange's quotations.

Earlier this year, the Exchange and its affiliate, BZX, received approval to effect a merger (the ''Merger'') of the Exchange's parent company, BATS Global Markets, Inc., with Direct Edge Holdings LLC, the indirect parent of EDGA and EDGX (the Exchange, together with BZX, EDGA and EDGX, the ''BGM Affiliated Exchanges'').[17] In the context of the Merger, the BGM Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the BGM Affiliated Exchanges. As previously described by EDGA and EDGX,[18] in addition to information regarding other markets' quotes such exchanges currently construct an NBBO for purposes of pegged orders using information regarding orders on the applicable exchange's local order book (*i.e.,* EDGA constructs a pegged NBBO using information regarding orders on the EDGA order book and EDGX constructs a pegged NBBO using information regarding orders on the EDGX order book). In connection with the technology integration the Exchange similarly proposes to use information regarding orders displayed on the BATS Book in addition to quotes disseminated from Direct Feeds, SIP Feeds, and Feedback in order to construct the PBBO. Thus, as proposed, the Exchange would no longer use the Exchange's quotes from the SIP feeds in order to construct the PBBO.

Order Routing

When the Exchange has a marketable order with instructions from the sender that the order is eligible to be routed, and the ME identifies that there is no matching price available on the Exchange, but there is a matching price represented at another venue that displays protected quotes, then the ME will send the order to the Routing Engine (''RE'') of BATS Trading.

In determining whether to route an order and to which venue(s) it should be routed, the RE makes its own calculation of the NBBO using the Direct Feeds, SIP feeds, and Router Feedback, as described below.[19] The RE will include odd lot quotations in its calculation of the NBBO depending on the source of the quotation. Where a

[9] *See supra* note 7.

[10] *See* Exchange Rule 1.5(e).

[11] Pursuant to Regulation NMS, a broker-dealer routing a Day ISO is required to simultaneously route one or more additional ISOs, as necessary, to execute against the full displayed size of any protected quote priced equal to or better than the Day ISO. *See also* Question 5.02 in the ''Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS'' (last updated April 4, 2008) *available at http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm.*

[12] As set forth in Rule 11.13(a)(3), the term ''System routing table'' refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them.

[13] *See* Exchange Rule 11.9(c)(8).

[14] *See* Exchange Rule 11.9(c)(9).

[15] *See* Exchange Rule 11.9(c)(16).

[16] *See* Exchange Rule 11.9(c)(19).

[17] *See* Securities Exchange Act Release No. 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR–BATS–2013–059; SR–BYX–2013–039).

[18] *See* Securities Exchange Act Release Nos. 72682 (July 28, 2014), 79 FR 44938 (August 1, 2014) (SR–EDGA–2014–17); 72683 (July 28, 2014), 79 FR 44950 (August 1, 2014) (SR–EDGX–2014–20).

[19] The ME and RE consume the same Direct Feeds and SIP feeds.

protected market center aggregates odd lot quotations at a single price level into round lot quotations and publishes such aggregated quotations to the SIPs, then the RE will include those odd lot quotations in its calculation of the NBBO.

The RE does not utilize Day ISO Feedback in constructing the NBBO; however, because all orders initially flow through the ME, to the extent Day ISO Feedback has updated the ME's calculation of the NBBO, all orders processed by the RE do take Day ISO Feedback into account. The RE receives Feedback from all Smart Order Routing strategies.

There are three types of Router Feedback that contribute to the Exchange's calculation of the NBBO:

• Immediate Feedback. Where BATS Trading routes an order to a venue with a protected quotation using Smart Order Routing (a ''Feedback Order''), the number of shares available at that venue is immediately decreased by the number of shares routed to the venue at the applicable price level.

• Execution Feedback. Where BATS Trading receives an execution report associated with a Feedback Order that indicates that the order has fully executed with no remaining shares associated with the order, all opposite side quotes on the venue's order book that are priced more aggressively than the price at which the order was executed will be ignored.

• Cancellation Feedback. Where BATS Trading receives an execution report associated with a Feedback Order that indicates that the order has not fully executed (either a partial execution or a cancellation), all opposite side quotes on the venue's order book that are priced equal to or more aggressively than the limit price for the order will be ignored.

All Feedback expires as soon as: (i) One (1) second passes; (ii) the Exchange receives new quote information; or (iii) the Exchange receives updated Feedback information.

Regulatory Compliance

Locked or Crossed Markets. The ME determines whether the display of an order would lock or cross the market. At the time an order is entered into the ME, the ME will establish, based upon its calculation of the NBBO from Direct Feeds, SIP feeds and Feedback, whether the order will lock or cross the prevailing NBBO for a security. In the event that the order would produce a locking or crossing condition, the ME will cancel the order, re-price [20] the order, or route the order based on the Member's instructions. Two exceptions to this logic are Day ISOs and declarations of self-help.

Pursuant to Regulation NMS, when an Exchange receives a Day ISO, the sender of the ISO retains the responsibility to comply with applicable rules relating to locked and crossed markets.[21] In such case, the Exchange is obligated only to display a Day ISO order at the Member's price, even if such price would lock or cross the market.[22]

Declarations of self-help occur when the RE detects that an exchange displaying protected quotes is slow, as defined in Regulation NMS, or non-responsive to the Exchange's routed orders. In this circumstance, according to Rule 611(b) of Regulation NMS, the Exchange may display a quotation that may lock or cross the market that the Exchange invoked self-help against.[23] The Exchange may also declare self-help where another exchange's SIP quotes are slow or non-responsive resulting in a locked or crossed market. Once the Exchange declares self-help, the ME and RE will ignore the quotes generated from the self-helped market in their calculations of the NBBO for execution and routing determinations in compliance with Regulation NMS. The Exchange will also disable all routing to the self-helped market. The ME and RE will continue to consume the self-helped market center's quotes; however, in order to immediately include the quote in the NBBO calculation and enable routing once self-help is revoked.

Trade-Through Rule. Pursuant to Rule 611 of Regulation NMS, the Exchange shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trade-throughs on trading centers of protected quotations in NMS stocks that do not fall within a valid exception and, if relying on such an exception, that are reasonably designed to ensure compliance with the terms of the exception. The ME does not permit an execution on the Exchange if there are better-priced protected quotations displayed in the market unless the order is an ISO. At the time an order is entered into the ME, the ME uses the view of the NBBO as described above. If the NBBO is priced better than what is resident on the Exchange, the Exchange does not match such order on the BATS Book, and based on the Member's instructions, the ME cancels the order, re-prices the order or routes the order.

Regulation SHO. The Exchange cannot execute a Short Sale Order [24] equal to or below the current National Best Bid (''NBB'') when a short sale price restriction is in effect pursuant to Rule 201 of Regulation SHO (''Short Sale Circuit Breaker'').[25] When a Short Sale Circuit Breaker is in effect, the Exchange utilizes information received from Direct Feeds, SIP feeds, and Feedback, and a view of the BATS Book to assess its compliance with Rule 201 of Regulation SHO. The primary difference between the NBBO used for compliance with Rule 201 of Regulation SHO and other constructions of the NBBO, however, is that the Exchange includes market centers against which it has declared self-help in its view of the NBBO.

Latent or Inaccurate Direct Feeds. Where the Exchange's systems detect problems with one or more Direct Feeds, the Exchange will immediately fail over to the SIP feed to calculate the NBBO for the market center(s) where the applicable Direct Feed is experiencing issues. Problems that lead to immediate fail over to the SIP feed may include a significant loss of information (*i.e.,* packet loss) or identifiable latency, among other things. The Exchange can also manually fail over to the SIP feed in lieu of Direct Feed data upon identification by a market center of an issue with its Direct Feed(s).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [26] in general, and furthers the objectives of Section 6(b)(5) of the Act [27] in particular, in that it is designed to

[20] *See* Rule 11.9(g).

[21] *See* supra note 13.

[22] *See* supra note 13.

[23] *See also* Question 5.03 in the ''Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS'' (last updated April 4, 2008) *available at http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm.*

[24] *See* Exchange Rule 11.19.

[25] 17 CFR 242.200(g); 17 CFR 242.201. On February 26, 2010, the Commission adopted amendments to Regulation SHO under the Act in the form of Rule 201, pursuant to which, among other things, short sale orders in covered securities generally cannot be executed or displayed by a trading center, such as the Exchange, at a price that is at or below the current NBB when a Short Sale Circuit Breaker is in effect for the covered security. *See* Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010). In connection with the adoption of Rule 201, Rule 200(g) of Regulation SHO was also amended to include a ''short exempt'' marking requirement. *See also* Securities Exchange Act Release No. 63247 (November 4, 2010), 75 FR 68702 (November 9, 2010) (extending the compliance date for Rules 201 and 200(g) to February 28, 2011). *See also* Division of Trading & Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, *www.sec.gov/divisions/marketreg/rule201faq.htm.*

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange does not believe that this proposal will permit unfair discrimination among customers, brokers, or dealers because it will be available to all Users.

The Exchange believes that its proposal to describe the Exchange's use of data feeds removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity and transparency. The Exchange's proposal will enable investors to better assess the quality of the Exchange's execution and routing services. Other than the proposed modification to the construction of the PBBO, the proposal does not change the operation of the Exchange or its use of data feeds; rather it describes how, and for what purposes, the Exchange uses the quotes disseminated from data feeds to calculate the NBBO for a security for purposes of Regulation NMS, Regulation SHO and various order types that update based on changes to the applicable NBBO. The Exchange believes the additional transparency into the operation of the Exchange as described in the proposal will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. On the contrary, the Exchange believes the proposal would enhance competition because describing the Exchange's use of data feeds enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange filed the Initial Proposal with the Commission on July 15, 2014, and it was published for comment in the **Federal Register** on August 1, 2014. The Commission received one (1) written comment letter in response to the Initial Proposal.[28] In addition, two (2) comment letters were submitted to the Commission commenting on a companion BZX filing[29] and one (1) comment letter was submitted to the Commission commenting on a companion EDGX filing.[30] The Exchange believes that the comments raised in these letters are either not directly related to the Exchange's proposal but instead raise larger market structure issues or are adequately addressed in this proposal, particularly as it relates to the Commission's request to describe the Exchange's use of data feeds for order handling and execution, order routing, and regulatory compliance. The Exchange further notes that the comments received regarding the Exchange's calculation of the PBBO are no longer applicable based on the proposed change described above related to the technology integration of the BGM Affiliated Exchanges.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[31] and Rule 19b–4(f)(6) thereunder.[32]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[33] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[34] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of the operative delay will allow the Exchange to immediately adopt rule text consistent with the Initial Proposal and offer certain functionality that is already available on EDGA and EDGX with respect to the use of information regarding orders on the applicable exchange's order book to construct the PBBO. In addition, the Exchange stated that waiver of the operative delay will allow it to continue to move towards a complete technology integration of the BGM Affiliated Exchanges to ensure stability of the System. For these reasons, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[35]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BYX–2015–03 on the subject line.

[28] *See* Letter from Donald Bollerman, Head of Market Operations, IEX ATS, to the Commission, dated September 25, 2014 (SR–BATS–2014–029) (SR–BYX–2014–012) (discussing the Exchange's calculation of the PBBO).

[29] *See* Letter from R.T. Leuchtkafer to the Commission, dated August 22, 2014 (SR–BATS–2014–029) (discussing the Exchange's market data feed practices). *See* Letter from Eric Scott Hunsader, Nanex, LLC, to the Commission, dated August 22, 2014 (SR–BATS–2014–029) (discussing the Exchange's use of NBBO as a defined term).

[30] *See* Letter from Suzanne Hamlet Shatto to the Commission, dated August 19, 2014 (SR–EDGX–2014–20) (discussing Dodd Frank principles).

[31] 15 U.S.C. 78s(b)(3)(A).

[32] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[33] 17 CFR 240.19b–4(f)(6).

[34] 17 CFR 240.19b–4(f)(6)(iii).

[35] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BYX–2015–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BYX–2015–03 and should be submitted on or before February 13, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01064 Filed 1–22–15; 8:45 am]

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[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74087; File No. SR–NYSEMKT–2014–86]

Self-Regulatory Organizations; NYSE MKT LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Remove the Exchange's Quote Mitigation Plan as Provided by Exchange Rule 970.1NY

January 16, 2015.

I. Introduction

On October 2, 2014, NYSE MKT LLC, (''NYSE MKT'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to remove the Exchange's quote mitigation plan as provided by NYSE MKT Rule 970.1NY. The proposed rule change was published for comment in the **Federal Register** on October 21, 2014.[3] On December 2, 2014, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On January 8, 2015, the Exchange submitted a letter in further support of the proposal.[6] The Commission received no comments on the proposal. This order institutes proceedings under Section 19(b)(2)(B) of the Act [7] to determine whether to approve or disapprove the proposal.

II. Description of the Proposal

In 2007, the Exchange adopted a quote mitigation plan in connection with the Penny Pilot Program.[8] According to the Exchange, the quote mitigation plan was designed to reduce the number of quotation messages sent by the Exchange to the Options Price Reporting Authority (''OPRA'') by only submitting quote messages for ''active'' series.[9] The Exchange defines active series under the quote mitigation plan in Exchange Rule 970.1NY as: (i) Series that have traded on any options exchange in the previous 14 calendar days; or (ii) series that are solely listed on the Exchange; or (iii) series that have been trading ten days or less, or; (iv) series for which the Exchange has received an order.[10] In addition, under the Exchange's quote mitigation plan, the Exchange may define a series as active on an intraday basis if: (i) The series trades at any options exchange; (ii) the Exchange receives an order in the series; or (iii) the Exchange receives a request for quote from a customer in that series.[11]

The Exchange proposes to remove its quote mitigation plan from its rules by deleting Exchange Rule 970.1NY.[12] The Exchange believes that its quote mitigation plan is no longer necessary primarily for three reasons. First, the Exchange states that its incorporation of select provisions of the Options Listing Procedures Plan (''OLPP'') [13] in Exchange Rule 903A serves to reduce the potential for excess quoting because the OLPP limits the number of options series eligible to be listed, which, according to the Exchange, reduces the number of options series a market maker would be obligated to quote.[14] Second, the Exchange states its view that Exchange Rule 925.1NY Commentary .01, which removes certain options series from market makers' continuous quoting obligations, reduces the number of quote message traffic that the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73367 (October 15, 2014), 79 FR 63009 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 73718, 79 FR 72748 (December 8, 2014). The Commission designated January 19, 2014, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] *See* Letter from Elizabeth King, Secretary & General Counsel, Exchange, to Kevin O'Neill, Deputy Secretary, Commission, dated January 8, 2015 (''NYSE MKT Letter'') *available at http://www.sec.gov/comments/sr-nysemkt-2014-86/nysemkt201486-1.pdf*.

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Securities and Exchange Release No. 55162 (January 24, 2007), 72 FR 4738 (February 1, 2007) (Order Granting Approval of SR–Amex–2006–106) (''Quote Mitigation Approval Order'').

[9] *See* Notice, *supra* note 3, at 63009.

[10] *See* Exchange Rule 970.1NY, *and* Notice, *supra* note 3, at 63009.

[11] *See id*.

[12] In addition, the Exchange proposes to amend paragraphs (b)(1) and (b)(2) of Exchange Rule 970NY (Firm Quotes) to delete references to the ''Quote Mitigation Plan.'' *See* Notice, *supra* note 3, at 63010.

[13] *See* Amendment to Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act *available at http://www.theocc.com/clearing/industry-services/olpp.jsp* (providing for the most current OLPP). *See also* Securities and Exchange Release No. 44521 (July 6, 2001), 66 FR 36809 (July 13, 2001) (order approving the OLPP).

[14] *See* Notice, *supra* note 3, at 63009. *See also* Securities and Exchange Release No. 61978 (April 23, 2010), 75 FR 22886 (April 30, 2010) (in which the Exchange adopted select provisions of the OLPP into Exchange Rule 903A).

Exchange sends to OPRA.[15] The Exchange states that reliance on the OLPP, via Exchange Rule 930A, and the refined market maker quoting obligations, pursuant to Commentary .01 to Exchange Rule 925.1NY, is sufficient as a quote mitigation plan.[16] Third, the Exchange states that both its systems capacity and OPRA's systems capacity are more than sufficient to accommodate any additional increase in quote traffic that might be sent to OPRA as a result of the deletion of the quote mitigation strategy.[17] The Exchange represents that it continually assesses its capacity needs and ensures that the capacity that it requests from OPRA is sufficient and compliant with the requirements established in the OPRA Capacity Guidelines.[18]

The Exchange represents that it has in place certain measures that the Exchange believes serve as additional safeguards against excessive quoting.[19] According to the Exchange, these safeguards include monitoring and alerting market makers disseminating an unusual number of quotes, a business plan designed to ensure that new listings are actively traded,[20] and excessive bandwidth utilization fees designed to encourage the efficient quoting.[21]

The Exchange proposes to announce the implementation date of the proposed rule change by Trader Update and publish such announcement no later than 60 days following the effective date of this proposal.[22]

III. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEMKT–2014–86 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[23] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[24] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to the consistency of the proposed rule change, as supplemented by the NYSE MKT Letter,[25] with Section 6(b)(5) of the Act, which require that the rules of a national securities exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[26]

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the concerns identified above, as well as any other concerns they may have with the proposed rule change. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[27] Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by February 13, 2015. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by February 27, 2015.

The Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5)[28] or any other provision of the Act, or the rules and regulations thereunder. The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposed rule change, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on the following:

1. As described above, the Exchange adopted its quote mitigation plan as provided in Exchange Rule 970.1NY in connection with its adoption of the Penny Pilot Program, which permits quoting of certain options series in certain increments.[29] The Commission has previously noted that the Penny Pilot Program has contributed to an increase in quotation message traffic from the options markets.[30] In approving the extension and expansion of the Penny Pilot Program in 2009 by the Exchange's affiliated exchange, NYSE Arca, Inc., the Commission relied, in part, on the NYSE Arca's representation that it would continue to use quote mitigation strategies that would continue to mitigate quotation traffic sent to OPRA.[31]

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[15] Commentary .01 to Exchange Rule 925.1NY provides that Exchange market makers continuous quoting obligations do not apply ''to adjusted option series, and series with a time to expiration of nine months or greater, for options on equities and Exchange Traded Fund Shares, and series with a time to expiration of twelve months or greater for Index options.'' *See also* Notice, *supra* note 3, at 63010.

[16] *See id.* The Exchange states its view that limiting the number of options series listed on the Exchange is preferable to suppressing the quotes of inactive options series, as required under current Exchange Rule 970.1NY, because all quotes sent by Exchange market makers are actionable even if not displayed. *See id.*

[17] *See* Notice, *supra* note 3, at 63010.

[18] *See id.*

[19] *See id.*

[20] *See id.* at n.13 (citing to Commentary .09(b) to Exchange Rule 915).

[21] *See id.* at n.14 (citing to NYSE Amex Options Fee Schedule, *available at, https://www.theice.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf*).

[22] *See* Notice, *supra* note 3, at 63010.

[23] 15 U.S.C. 78s(b)(2)(B).

[24] *Id.* Section 19(b)(2)(B) of the Exchange Act also provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. *See id.* The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding. *See id.*

[25] *See* NYSE MKT Letter, *supra* note 6.

[26] 15 U.S.C. 78f(b)(5).

[27] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Pub. L. 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[28] *Id.*

[29] *See supra* note 8 and accompanying text.

[30] *See* Securities and Exchange Release No. 60711 (September 23, 2009), 74 FR 49419, 49422 (September 28, 2009) (Order Granting Partial Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 3 thereto, Amending NYSE Arca Rule 6.72 and Expanding the Penny Pilot Program).

[31] *See id.* The Commission stated: ''While the Commission anticipates that NYSE Arca's proposed expansion of the Pilot Program will contribute to further increases in quotation message traffic, the Commission believes that NYSE Arca's proposal is sufficiently limited such that it is unlikely to increase quotation message traffic beyond the capacity of market participants' systems and disrupt the timely receipt of quote information. NYSE Arca has proposed to roll out the additional 300 classes over time, in groups of 75 classes each quarter beginning on October 26, 2009. The Commission

As noted above, the Exchange believes that its quote mitigation strategy is no longer necessary because: (1) The Exchange has incorporated select provisions of the OLPP in Exchange Rule 930A, which the Exchange believes limits the number of series eligible to be listed; (2) current Exchange Rule 925.1NY Commentary .01 removes certain options series from market makers' continuous quoting obligations, which the Exchange believes reduces the number of quote messages that the Exchange sends to OPRA; and (3) both the Exchange's systems capacity and OPRA's systems capacity are more than sufficient to accommodate any additional increase in quote traffic that might be sent to OPRA as a result of the deletion of the quote mitigation strategy.[32] Do commenters believe that reliance on the Exchange's current rules and the existing systems capacity of the Exchange and OPRA are sufficient or insufficient means to mitigate quote message traffic from the Exchange to OPRA? Please explain.

2. What are commenters' views on the impact, if any, that might result from the Exchange's proposal to remove its current quote mitigation plan as provided in Exchange Rule 970.1NY? For example, what are commenters' views on the impact the Exchange's proposal would have, if any, on OPRA's system capacity? Please explain. Or, what are commenters' views on the impact the Exchange's proposal would have on market participants using OPRA and/or the Exchange's quotation message feeds? Please explain.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2014–86 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2014–86. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2014–86 and should be submitted on or before February 13, 2015. Rebuttal comments should be submitted by February 27, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Brent J. Fields,

Secretary.

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further notes that a June 2, 2009 sustained message traffic peak of 852,350 messages per second reported by OPRA is still well below OPRA's current messages per second capacity limit of 2,050,000. Moreover, NYSE Arca has adopted and will continue to utilize quote mitigation strategies that should continue to mitigate the expected increase in quotation traffic.'' *Id.* The Exchange extended and expanded its participation the Penny Pilot Program and made other changes to its Penny Pilot Program consistent with the changes proposed by its affiliate exchange, NYSE Arca, Inc. *See* Securities and Exchange Release No. 61106 (December 3, 2009), 74 FR 65193 (December 9, 2009) (citing Securities and Exchange Release No. 60711 (September 23, 2009), 74 FR 49419 (September 28, 2009)).

[32] *See supra* notes 13–18 and accompanying text.

[33] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74085; File No. SR–ICEEU–2014–20]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Granting Approval of Proposed Rule Change Relating to CDS Pricing Policy

January 16, 2015.

I. Introduction

On November 24, 2014, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–ICEEU–2014–20 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on December 9, 2014.[3] The Commission received no comment letters regarding the proposed change. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description of the Proposed Rule Change

ICE Clear Europe is proposing this change to revise the ICE Clear Europe CDS End-of-Day Price Discovery Policy (''CDS Pricing Policy'') to incorporate enhancements to its price discovery process. The revisions do not require any changes to ICE Clear Europe's Clearing Rules or Procedures.

According to ICE Clear Europe, it currently uses a ''cross and lock'' algorithm as part of its price discovery process for CDS Contracts. As described by ICE Clear Europe, under this algorithm, bids and offers derived from Clearing Member submissions are matched by sorting them from highest to lowest and lowest to highest levels, respectively. This sorting process pairs the Clearing Member submitting the highest bid price with the Clearing Member submitting the lowest offer price, the Clearing Member submitting the second highest bid price with the Clearing Member submitting the second-lowest offer price, and so on. The algorithm then identifies crossed and/or locked pairs (or ''markets''). Crossed markets are the Clearing Member pairs generated by the sorting process for which the bid price of one Clearing Member is above the offer price of the matched Clearing Member. Locked

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–73731 (Dec. 3, 2014), 79 FR 73126 (Dec. 9, 2014) (SR–ICEEU–2014–20).

markets are the Clearing Member pairs where the bid and the offer are equal. The mid-point of the bid and offer of the first non-crossed, non-locked matched market is the final end-of-day level (with additional steps taken to remove off-market submissions from influencing the final level). As stated by ICE Clear Europe, this process captures the market dynamics of trading; however, final pricing levels are ultimately determined by a single bid and a single offer, which results in the ability for one submission to influence the outcome.

ICE Clear Europe proposes enhancements to this methodology to improve the consistency of prices and reduce the sensitivity of the final end-of-day level to a single Clearing Member's submission. ICE Clear Europe proposes that, under the new ''cross and lock'' methodology, the average of the mid-points of all non-crossed, non-locked matched markets for which the difference between the matched market bid and matched market offer is less than or equal to one bid-offer width is used as the final level (with additional steps taken to remove off-market submissions from influencing the final level). According to ICE Clear Europe, this approach would make end-of-day price determinations less sensitive to outlying submissions.

In addition, ICE Clear Europe proposes a clarification to the calculation of a Clearing Member's open interest for purposes of the end-of-day price submission process to take into account the aggregate of both house and client positions carried by the Clearing Member. ICE Clear Europe also proposes revisions to the CDS Pricing Policy to correct the minimum number of Clearing Members that need to have open interest in a particular instrument; this change, as stated by ICE Clear Europe, conforms to current practice by the Clearing House.

ICE Clear Europe further proposes revisions to clarify that notional limits for firm trades that may be assigned to Clearing Members as a result of the end-of-day price submission process will be established at risk sub-factor and sector levels, and to clarify the sequencing of firm trades for determining breaches of those limits, including accounting for the applicable risk sub-factor and addressing sequencing within a particular instrument that is part of a particular risk sub-factor, if necessary.

Additionally, ICE Clear Europe proposes amendments to certain requirements applicable to the unwinding of firm trades entered into by Clearing Members. ICE Clear Europe states that its current policy does not require firm trades to be maintained for any particular period of time, but it requires Clearing Members that elect to unwind a firm trade to do so at the then-current market price. ICE Clear Europe contends that there are practical difficulties with objectively determining whether an unwind transaction was executed at the then-current market price and therefore this requirement can be difficult to enforce. ICE Clear Europe proposes revising the policy to replace the requirement that unwinds be executed at the then-current market price with the requirement that any unwind be executed in a competitive manner. Further, ICE Clear Europe proposes adding the requirement that, upon request, Clearing Members be able to demonstrate to the Clearing House's reasonable satisfaction that such unwind transaction was executed in a competitive manner. ICE Clear Europe proposes adding a non-exclusive list of examples of how Clearing Members may be able to demonstrate competitive execution of unwind transactions. Such examples would include: (i) Execution on an available trading venue; (ii) multiple dealer quotes received and execution of the unwind transaction at the best quoted price; or (iii) placement of the unwind transaction with an interdealer broker with price terms and instructions commensurate with a competitive execution.

In addition, ICE Clear Europe proposes amendments to make certain clarifications with respect to permissible reversing transactions with respect to firm trades and the manner in which the Clearing House designates that actively traded benchmark instruments are not eligible for reversing transactions.

Furthermore, ICE Clear Europe proposes certain other conforming changes to the CDS Pricing Policy as a consequence of a prior rule change.[4] Specifically, ICE Clear Europe proposes adding references to risk sub-factors (as that term is described in the CDS Risk Policy) throughout the CDS Pricing Policy, as well as conforming changes to various references to risk factors. Finally, ICE Clear Europe proposes various non-substantive drafting clarifications throughout the CDS Pricing Policy.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[5] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act[6] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions.

The Commission finds that the proposed rule change is consistent with Section 17A of the Act[7] and the rules thereunder applicable to ICE Clear Europe. The proposed revisions to the ''cross and lock'' methodology are expected to reduce the sensitivity of the final price level to a single Clearing Member's submission, resulting in more consistent day-over-day end-of-day levels. Furthermore, the proposed revisions that would require Clearing Members to execute unwinds in a competitive manner and, upon request, demonstrate to ICE Clear Europe's reasonable satisfaction that the Clearing Member complied with this requirement, are expected to make the CDS Pricing Policy more readily enforceable, while maintaining the incentive for Clearing Members to provide accurate price submissions.

ICE Clear Europe's clarifications concerning (1) the referencing of risk sub-factors, including the clarifications concerning the notional limits applicable to firm trades, (2) permissible reversing transactions and (3) calculations of a Clearing Member's open interest each clarify or conform the text of the CDS Pricing Policy in accordance with ICE Clear Europe's existing practice. All other revisions proposed by ICE Clear Europe as a result of this proposed rule change are conforming changes to other rule changes previously filed by ICE Clear Europe. The proposed rule change is therefore reasonably expected to provide a pricing methodology that more accurately reflects the market level and existing practice. The proposed rule change is also reasonably expected to be more readily enforceable and to enhance incentives for Clearing Members to provide accurate pricing information. As such, the Commission believes that the changes are designed to promote the prompt and accurate settlement of securities and derivatives transactions, and, therefore, are consistent with the requirements of the Act and the rules and regulations thereunder applicable to

[4] *See* Exchange Act Release No. 34–73156 (Sept. 19, 2014), 79 FR 57629 (Sept. 25, 2014) (SR–ICEEU–2014–13).

[5] 15 U.S.C. 78s(b)(2)(C).

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

ICE Clear Europe, in particular, Section 17(A)(b)(3)(F).[8]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[9] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (File No. SR–ICEEU–2014–20) be, and hereby is, approved.[11]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01071 Filed 1–22–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74086; File No. SR–NYSEMKT–2015–04]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Amex Options Fee Schedule

January 16, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on January 14, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Amex Options Fee Schedule (''Fee Schedule'') to: (1) Make certain changes to transaction fees for Standard Options; (2) provide a discount to NYSE Amex Options Market Makers for transaction fees based on a sliding volume scale; (3) offer to NYSE Amex Options Market Makers the opportunity to prepay a portion of certain transaction fees; (4) eliminate the Order Flow Provider (''OFP'') Electronic average daily volume (''ADV'') Tiers as well as the Customer Electronic Complex Order ADV Tiers and replace them with a new Amex Customer Engagement Program, which would provide credits payable to an OFP for certain Electronic Customer volume; and (5) reformat and reorganize the Fee Schedule. The Exchange proposes to implement the changes on January 2, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to: (1) Make certain changes to transaction fees for Standard Options; (2) provide a discount to NYSE Amex Options Market Makers for transaction fees based on a sliding volume scale; (3) offer to NYSE Amex Options Market Makers the opportunity to prepay a portion of certain transaction fees; (4) eliminate the OFP Electronic ADV Tiers as well as the Customer Electronic Complex Order ADV Tiers and replace them with a new Amex Customer Engagement Program, which would provide credits payable to an OFP solely for certain Electronic Customer volume; and (5) reformat and reorganize the Fee Schedule. The Exchange proposes to implement the changes on January 2, 2015.

As a general matter, the Exchange notes that it has proposed to reorganize certain content within and reorder certain sections of the current Fee Schedule. For example, as will be discussed further below, the Exchange has proposed to eliminate Endnotes and instead include notes relevant to each Section within that Section, often using the text that is contained in the current Endnotes within each new Section. If the Exchange revises any text in the Endnotes when moving it to notes within relevant Sections, including for non-substantive reasons, we will explain in more detail below. The Exchange believes this structure will make the Fee Schedule easier to comprehend.

The Exchange describes below each of the sections, together with any changes, in the proposed Fee Schedule.

Table of Contents, Preface, Definitions and Terms

The Exchange proposes to amend its Fee Schedule by adding a Table of Contents, using numbered and lettered headings and subheadings that list the various transaction fees and credits offered by the Exchange. The Exchange believes that including a Table of Contents would make the Fee Schedule easier to navigate and assist market participants in locating fees and/or credits related to those transactions in which they may be most interested.

Following the Table of Contents, the Exchange proposes to add a Preface that includes information about the Exchange's billing and rounding practices and that sets forth key terms and definitions. First, the Exchange proposes to include information about Billing Disputes, as the first part of the Preface. The current Fee Schedule describes how the Exchange handles Billing Disputes under ''NYSE Amex Options General,''[4] and this description will be incorporated into the proposed Preface verbatim.

Second, the Exchange proposes to add a description of its rounding practices. Specifically, the Exchange proposes to include the following language.

Any per contract fees that are less than $0.01 will be handled in the following manner. All volume for the month will be summed and the applicable rate applied. In those cases where a fractional cent occurs, the Exchange will round up to the nearest whole cent for purposes of computing the invoice. For example, if the monthly volume is 3,001 contracts and the applicable rate is $0.055 per contract,

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[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 15 U.S.C. 78q–1.

[10] 15 U.S.C. 78s(b)(2).

[11] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] This information appears at the end of the current Fee Schedule, right before the Endnotes.

the result is $165.055 which will be rounded to $165.06 in computing the invoiced amount.

The Exchange believes that including this information in the Fee Schedule would better inform Exchange members about how the Exchange bills them for transactions executed on the Exchange.

Next, the Exchange proposes to add a new section that sets forth Key Terms and Definitions to make clear to members the meaning of certain terms used throughout the Fee Schedule. The Exchange believes this proposed change would make the Fee Schedule more comprehensive, thereby better informing members. Unless otherwise noted below, the proposed Key Terms and Definitions are non-substantive as they have been excerpted from the rules of the Exchange.[5]

The Exchange proposes to add a definition of Affiliate, which incorporates the ''Affiliate'' standard in Endnote 12 of the current Fee Schedule. The proposed definition of ''Affiliate'' states, in part, that the Exchange ''will apply a 70% common ownership test'' to determine affiliation for purposes of aggregating routing and market making activity. Although Endnote 12 relates solely to a determination of affiliation for purposes of Excessive Bandwidth Fees, the Exchange proposes to apply the Affiliate definition (*i.e.,* 70% common ownership) more broadly in the proposed Fee Schedule.[6] The Exchange notes that this proposed definition of Affiliate is consistent with that of other options exchanges, and at least two other options exchanges apply a 75% common ownership threshold for affiliation and that there is at least one other exchange that does not specify the level of common ownership or common control required in order to have the activity of affiliates aggregated for purposes of the fee schedule.[7]

The Exchange has proposed to add a ''Non-Customer'' definition for purposes of the proposed Fee Schedule. The definition of ''Non-Customer'' would be any market participant that is not a Customer. Because the definition of Customer in proposed Fee Schedule would be any individual or organization that is not a Broker-Dealer and is not a Professional Customer, as defined in Rule 900.2NY(18)(A), a Non-Customer would be defined as any individual or organization that is either a Broker-Dealer or Professional Customer.

In addition, the Exchange proposes to add the definition of Standard Option contracts, which it defines as any option other than a Mini Option contract, as described in Rule 901, Commentary .01.

The Exchange notes that the other proposed Key Terms and Definitions are non-substantive. Specifically, the proposed definitions related to the CUBE Auction—CUBE Order, Contra Order, and Initiating Participant—are taken directly from the CUBE Auction fee filing and are, therefore, non-substantive proposed changes.[8] Also, the proposed addition of the terms Electronic and Manual to differentiate these types of transactions on the Exchange are non-substantive as this information can be found in Exchange rules, as well as in the current Fee Schedule. Specifically, Rule 900.2NY(29) explains that Floor Market Maker quotations may be entered ''(A) manually, by public outcry, and (B) electronically through an auto-quoting device.'' Similarly, Endnote 6 to the current Fee Schedule states that ''Manual trades are those trades executed in open outcry.'' Further, the Exchange notes that there are references to Manual and Electronic transactions throughout the current (and proposed) Fee Schedule. Thus, the Exchange believes it would be logical to add these definitions to explain these transaction types to market participants.

Finally, the Exchange also proposes non-substantive additions to the Key Terms and Definitions by importing the information from current Endnotes 6 and 14, which contain the definitions of Firm Proprietary, Firm Facilitation and Non-NYSE Market Maker, respectively (with slight stylistic wording changes to these definitions). In particular, the Exchange proposes to simplify the term ''Firm Proprietary'' to ''Firm'' throughout the proposed Fee Schedule. The proposed definition of ''Firm'' includes information from current Endnote 6 together with the definition from Rule 900.2NY(28).[9]

Except as otherwise indicated above, the Exchange believes the addition of this Key Terms and Definitions section is a non-substantive addition that will aid its members in navigating and understanding certain terms consistently used through the Fee Schedule.

Section I. Options Transactions Fees and Credits

A. Rates for Standard Option Contracts Transactions—Electronic and Manual

The current Fee Schedule sets forth the rates for Standard Option[10] contracts in a table under ''NYSE Amex Options: Trade-Related Charges for Standard Options.''[11] The Exchange proposes to set forth the per contract rate Electronic and Manual transactions in Standard Options under new Section I.A. in a table (with related notes to immediately follow).[12]

With the following exceptions, the Exchange is not proposing to change the rates for Standard Option contracts:

- The Exchange proposes a new rate of $0.23 per contract for e-Specialists, Specialists, Directed Options Market Makers (''DOMMs''), and NYSE Amex Options Market Makers for Electronic transactions in Standard Option contracts.[13] This rate is competitive with rates being charged on other

[5] *See* proposed Fee Schedule, Key Terms and Definitions; *see, e.g.,* Rule 900.2NY (Definitions).

[6] The Exchange proposes to import the balance of the information contained in current Endnote 12 into Section II (''Monthly Excessive Bandwidth Utilization Fees'') of the proposed Fee Schedule as discussed below.

[7] *See, e.g.,* NASDAQ OMX PHLX LLC (''PHLX'') fee schedule, *available here, http://www.nasdaqtrader.com/Micro.aspx?id=PHLXPricing* (defining the term ''Common Ownership'' as meaning ''members or member organizations under 75% common ownership or control''); *see also* The Chicago Board Options Exchange, Inc. (''CBOE'') fee schedule, *available here, http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf* (defining ''affiliate'' as ''having at least 75% common ownership'' between the two entities in question); *see also* BATS BZX Exchange (''BATS'') fee schedule, *available here, http://cdn.batstrading.com/resources/regulation/rule_book/BZX_Fee_Schedule.pdf* (defining the term ''ADAV'' to specify, ''a Member may aggregate ADAV or ADV with other Members that control, are controlled by, or are under common control with such Member'').

[8] *See* Securities Exchange Act Release No. 72469 (June 25, 2014), 79 FR 37380 (July 1, 2014) (NYSE–MKT–2014–52).

[9] In addition, the Exchange proposes to import the balance of the information contained in current Endnote 6 into Section I.I (''Firm Monthly Fee Cap'') of the proposed Fee Schedule as discussed below.

[10] Where applicable, capitalized terms used herein have the meanings set forth in the proposed Fee Schedule in the Key Terms and Definitions section.

[11] In the current Fee Schedule, the table of fees for Standard Options includes several Endnotes. The information contained in Endnote 5 will be discussed in this Section and again in proposed Section I.C. (NYSE Amex Market Maker Sliding Scale). As noted above, existing Endnotes 6 and 14 describe the terms Firm Proprietary, Firm Facilitation, and Non-NYSE Market Maker, respectively, and the Exchange proposes the non-substantive change of relocating these terms to the Key Terms and Definitions section of the proposed Fee Schedule, although Firm Proprietary has been simplified to Firm; the proposed definition of Firm includes information from Endnote 6 together with the definition from Rule 900.2NY(28).

[12] The Exchange will describe the proposed notes after discussing the distinctions between the fees.

[13] In adopting the new $0.23 base rate for Electronic transactions for e-Specialists, Specialists, DOMMs, and NYSE Amex Options Market Makers—Non Directed, the Exchange will no longer offer differentiated pricing for the Electronic transactions of these participants. Thus, these participants will be collectively referred to as ''NYSE Amex Options Market Makers'' for purposes of the proposed Fee Schedule and will be subject to the same rates for Electronic transactions.

exchanges.[14] The new base rate of $0.23 per contract represents an increase in fees charged to market participants. Under the current Fee Schedule, each market participant is charged a per contract fee for Electronic transactions (described below), which rate is subject to a three-cent per contract discount if the market participant trades 50,000 contracts ADV or greater for each day of the month. Thus, the current undiscounted per contract charges for Standard Options are as follows: Specialists and e-Specialists are charged $0.13 per contract; DOMMs are charged $0.18 per contract, and NYSE Amex Options Market Makers—Non Directed are charged $0.20 per contract. Although this proposal represents an increase across the board in the per contract rate charged for Electronic transactions, as noted above, the proposed rate is consistent with other exchanges. Further, the Exchange proposes to afford these market participants an opportunity to pay lower per contract rates for their Electronic executions under the proposed Sliding Scale, as discussed in Section I.C. below.

• In conjunction with the proposed base rate change, the Exchange proposes to eliminate the three-cent per contract discount (noted above) for e-Specialists, Specialists, DOMMs, and NYSE Amex Options Market Makers that execute 50,000 or more contracts ADV for each day of the month. For example, under the current Fee Schedule, a Specialist or e-Specialist that does not execute more than 50,000 contracts ADV is charged $0.13 per contract, but if they meet the volume threshold they are charged only $0.10 per contract. The Exchange undiscounted rate of $0.13 per contract for Specialists and e-Specialists and $0.20 per contract for NYSE Amex Options Market Makers would continue to apply to these members' Manual transactions in Standard Option contracts.[15] Current Endnote 5 describes the calculation used in determining whether a Specialist, e-Specialist, DOMM or NYSE Amex Options Market Maker has reached the 50,000 contract ADV threshold, which calculation excludes volumes from Mini Options and CUBE Auctions. In conjunction with eliminating the discount associated with achieving the 50,000 contract ADV threshold, the Exchange also proposes to eliminate the portions of current Endnote 5 relating to the 50,000 contract ADV threshold.

• The Exchange is also proposing to eliminate the $0.10 per contract charge for SPY Electronic Complex executions for NYSE Amex Options Market Makers. The Exchange proposes that these transactions will be charged the same rate as any other Electronic Standard Option transaction by a NYSE Amex Market Maker going forward.

• Finally, the Exchange proposes to eliminate the $350,000 per month fee cap on NYSE Amex Options Market Makers, and the associated service fees of $0.01 per contract for volumes in excess of 3,500,000 contracts or the $0.10 per contract service fee for Complex volumes as described in Endnote 5 to the current Fee Schedule. Endnote 5 to the current Fee Schedule contains a description of the manner in which the $350,000 per month fee cap works and also includes a description of the application of the $0.01 per contract service fee for all Specialist, e-Specialist and Market Maker volume executed in excess of 3,500,000 contracts per month, as well as the exception for the execution of an Electronic Complex Order, in which case the incremental service fee is $0.10 per contract. Current Endnote 5 also describes transactions that are excluded from ADV volume calculations, such as Mini Options contract charges and executions resulting from CUBE Auctions. As the $350,000 per month fee cap is being eliminated, the Exchange also proposes to eliminate those portions of Endnote 5 relating to the $350,000 per month fee cap. Consequently, in conjunction with the changes described in the bullet above, the Exchange proposes to eliminate Endnote 5 to the current Fee Schedule its entirety.

In addition, immediately following the proposed fee table, there are four notes designed to amplify certain information in the table in Section I.A. The first, second, and fourth notes refer to fees and/or credits that may apply and which will be discussed in greater detail below in Sections I.K. (Royalty Fees), I.C. (NYSE Amex Options Market Maker Sliding Scale), and I.I. (Firm Monthly Fee Cap), respectively. The third note relates to Marketing Charges and is related to the column ''Marketing Charges Per Contract for Electronic Transactions.''

The third note contains the same information that appears on the current Fee Schedule under ''Marketing Charge,'' [16] together with the two associated Endnotes 9 and 10.[17] The Exchange proposes to include information about the assessment and distribution of the Marketing Charges in the third note to the table of transaction fees for Standard Options contracts, which lists the Marketing Charges per contract for Electronic transactions. In addition, the Exchange is proposing to make changes to the language in the current Fee Schedule under ''Marketing Charges'' and in Endnotes 9 and 10. As proposed to be included in the third note, the proposed description of the manner in which the Marketing Charges are assessed and distributed would be clearer than in the current Fee Schedule. The Exchange is not, however, proposing to make any substantive changes to the manner in which Marketing Charges are assessed or distributed. Specifically, NYSE Amex Options Market Makers who are counterparties to an Electronic Trade with a Customer would continue to be assessed a Marketing Charge. The Exchange is proposing to remove the statement that Marketing Charges will not be assessed against executed QCC or CUBE orders because the table in which proposed note 3 appears only relates to Standard Options contracts. Further, the pool of monies resulting from the collection of Marketing Charges on Electronic non-Directed Orders would continue to be controlled by the Specialist or e-Specialist with superior volume performance over previous quarter. An ATP Holder that submits an Electronic non-Directed Order would continue to be able to designate a any NYSE Amex Options Market Maker to control Marketing Charges collected in connection with such non-Directed Order. And, Marketing Charges on Electronic Directed Orders would continue to be controlled by the NYSE Amex Options Market Maker to which the order was directed. In all cases, the Exchange would continue to distribute any monies to payment accepting firms as directed by the appropriate NYSE Amex Options Market Maker.

[14] *See, e.g.,* CBOE fee schedule, *available here, http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf* (the ''Liquidity Provider Sliding Scale''); PHLX fee schedule, *available here, http://www.nasdaqtrader.com/Micro.aspx?id=PHLXPricing* (per the ''Multiply Listed Options Fees,'' charging Specialists and Market Makers $0.22 or $0.25 per contract for Penny and Non-Penny electronic transactions); Boston Options Exchange LLC (''BOX'') fee schedule, *available here, http://boxexchange.com/assets/BOX_Fee_Schedule.pdf* (per Section IA—Non Auction Transaction Fees, charging Marker Makers a variable rate between $0.00 and $0.90 per contract depending upon whether they are making or taking liquidity and which participant type counterparty (*e.g.,* Customer, Firm, etc.).

[15] DOMMs do not execute Manual transactions.

[16] The Marketing Charge entry is found right below the ''Limit on Strategy Executions'' [sic] section in the current Fee Schedule, which comes after the heading ''NYSE Amex Options: Trade-Related Charges for Mini Options.''

[17] The Exchange notes that while it has imported the information from current Endnotes 9 and 10, the language has been streamlined to make the text more concise and comprehensible.

Finally, the Exchange proposes a non-substantive change with respect to the proposed table in Section I.A. The proposed table has separate columns for transaction type (Electronic v. Manual) and ''Marketing Charges Per Contract for Electronic Transactions as well as separate rows to distinguish between whether the option is for a Penny or Non-Penny option.[18] The Exchange believes that the re-formatted table provides the same information but in a manner that is easier to navigate.

Section I.B. Rates for Mini Option Contracts Transactions—Electronic and Manual

The current Fee Schedule sets forth the rates for Mini Option contracts in a table under ''NYSE Amex Options: Trade-Related Charges for Mini Options.'' [19] The Exchange proposes to include the per contract rate for Electronic and Manual transactions in Mini Options under new Section I.B. in a table (with a related note to immediately follow).[20] The Exchange is not proposing any change to the rates charged for Mini Options. The Exchange is proposing two non-substantive changes to the presentation of charges related to Mini Options. First, the Exchange proposes to omit the fees and credits for QCC trades involving Mini Options from the table and to instead relocate this information to Section I.F. (QCC Fees & Credits). The Exchange believes it is logical to include all QCC-related fees and credits for Standard and Mini Options in one place on the Fee Schedule and believes that this change would aid participants in QCC trades in locating information relating to these transactions. Second, the Exchange proposes to delete the column for fees applicable to ''Electronic Complex Order Executions'' in Mini Options from the table of charges for Mini Options as it appears in the current Fee Schedule [21] because the rates for simple (or single-legged) executions and Complex (or multi-legged) executions is (and will remain) the same and therefore this separate column is not needed. The Exchange believes eliminating this superfluous column will add clarity to the Fee Schedule.

Section I.C. NYSE Amex Options Market Maker Sliding Scale—Electronic

The Exchange is proposing to provide a discount to NYSE Amex Options Market Makers [22] for transaction fees based on a sliding volume scale. This proposed Sliding Scale discount is designed to replace the $350,000 per month fee cap, and related $0.01 per contract service fee for all NYSE Amex Options Market Maker volume executed in excess of 3,500,000 contracts per month, except for the execution of an Electronic Complex Order, in which case the incremental service fee is $0.10. The proposed sliding scale is also designed to replace the 50,000 contract ADV threshold which results in a $0.03 per contract discount for NYSE Amex Options Market Makers, which, as discussed in Section I.A. above, the Exchange proposes to eliminate.[23]

The proposed Sliding Scale discount in the table in Section 1.C. would apply to Electronic transactions in Standard Options by NYSE Amex Options Market Makers. An NYSE Amex Options Market Maker that has monthly volume on the Exchange of less than 0.10% of total industry Customer equity and exchange traded fund (''ETF'') options volume [24] would be charged the proposed base rate of $0.23, as discussed above. The Exchange proposes to offer these same market participants a reduction of this per contract rate upon reaching certain volume thresholds as shown in the table below. The rates shown are applicable to monthly volume within a given tier such that the lower per contract rate applies only to volume levels within that higher tier. For example, assume that an NYSE Amex Options Market Maker achieves monthly volume of 6,000,000 contracts Electronically at a time when total industry Customer equity and ETF Option volume in the same month is 252,000,000 contracts. Under the proposed Sliding Scale, this Market Maker would pay $0.23 per contract on the first 252,000 contracts (Tier 1); $0.20 per contract on contracts 252,001 through 1,512,000 (Tier 2); $0.10 per contract on contracts 1,512,001 through 3,150,000 (Tier 3), $0.08 per contract on contracts 3,150,001 through 3,528,000 (Tier 4), $0.05 per contract on contracts 3,528,001 through 4,410,000 (Tier 5), $0.03 per contract on contracts 4,410,001 through 5,040,000 (Tier 6), and $0.02 per contract on contracts 5,040,001 through 6,000,000 (Tier 7).[25] The Exchange believes this change will enable it to compete more effectively with other options exchanges that offer similar pricing.[26]

PROPOSED TABLE SHOWING SLIDING SCALE OF MARKET MAKER FEES—ELECTRONIC

Tier	Market maker monthly electronic volume as a % of industry customer equity and ETF option volume	Rate per contract
1	0.00% to 0.10%	$0.23
2	>0.10% to 0.60%	0.20
3	>0.60% to 1.25%	0.10
4	>1.25% to 1.40%	0.08
5	>1.40% to 1.75%	0.05
6	>1.75% to 2.00%	0.03
7	>2.00%	0.02

Section I.D. Prepayment Program

The Exchange is proposing to offer prepayment programs to NYSE Amex Options Market Makers. The proposed Prepayment Program would allow a NYSE Amex Options Market Makers the option to commit to either a 1-year or 3-year term (the ''1 Year Prepayment Program'' or ''3 Year Prepayment Program,'' respectively) under which it could prepay a portion of the charges it

[18] ''Penny'' option and ''Non-Penny'' option would be defined in the proposed new ''Key Terms and Definitions'' section.

[19] The current table of fees for Mini Options includes several Endnotes. The Exchange proposes to move the information discussed in current Endnote 17 to proposed Section I.E. (Amex Customer Engagement Program), which is discussed below. As noted above, *supra* n. 11, current Endnote 6 describes the term Firm and this term is now included in the proposed Fee Schedule in the Key Terms and Definitions section.

[20] Note 1 to the proposed table relates to Marketing Charges, which, as noted in Section I.A. above, is information that was imported directly from the current Fee Schedule, with changes as noted herein (*see supra* n. 17), and therefore represents a non-substantive change.

[21] *See* Current Fee Schedule, ''NYSE Amex Options: Trade-Related Charges for Mini Options.''

[22] *See supra* n. 13.

[23] The current $350,000 per month fee cap is found in Endnote 5 of the current Fee Schedule, which also describes the $0.01 and $0.10 service fee for single leg and complex volumes in excess of the cap.

[24] The volume thresholds are based on an NYSE Amex Options Market Makers' volume transacted Electronically as a percentage of total industry Customer equity and ETF options volumes as reported by the Options Clearing Corporation (the ''OCC''). Total industry Customer equity and ETF option volume is comprised of those equity and ETF contracts that clear in the Customer account type at OCC and does not include contracts that clear in either the Firm or Market Maker account type at OCC or contracts overlying a security other than an equity or ETF security. *See* OCC Monthly Statistics Reports, *available here, http://www.theocc.com/webapps/monthly-volume-reports.*

[25] In calculating an NYSE Amex Options Market Maker Electronic volumes, the Exchange proposes to exclude any volumes attributable to Mini Options, QCC trades, CUBE Auctions, and Strategy Execution Fee Caps, as these transactions are subject to separate pricing described in proposed Fee Schedule Sections I.B., I.F., I.G., and I.J, respectively.

[26] *See, e.g.,* CBOE fee schedule, *available here, http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf* (the ''Liquidity Provider Sliding Scale''); BOX fee schedule, *available here, http://boxexchange.com/assets/BOX_Fee_Schedule.pdf* (the ''Tiered Volume Rebate for Market Makers''); MIAX fee schedule, *available here, http://www.miaxoptions.com/sites/default/files/MIAX_Options_Fee_Schedule_12012014.pdf* (''Market Maker Sliding Scale'').

incurs under proposed Sections I.C., I.G., or III.A. of the Fee Schedule.[27] The 1 Year Prepayment Program would require an upfront payment of $4 million, payable by January 30, 2015. The 3 Year Prepayment Program would require a commitment of $9 million, payable in three equal, annual installments of $3 million, with the first payment due by January 30, 2015, the second payment due by January 29, 2016 and the final payment due by January 31, 2017. Any NYSE Amex Options Market Maker that elects to participate in either of the Prepayment Programs would qualify its Affiliated OFP to be eligible to receive the enhanced credit(s) under the Amex Customer Engagement (''ACE'') Program (described below) in proposed Section I.E. of the Fee Schedule.

To participate in the 1 Year or 3 Year Prepayment Programs, interested NYSE Amex Options Market Makers would have to notify the Exchange in writing no later than January 15, 2015 indicating to which prepayment term they are committing.[28] The 3 Year Prepayment Program would not be available after January 15, 2015. However, NYSE Amex Options Market Maker firms could opt into the 1 Year Prepayment Program for 2016 or 2017 by sending an email to the Exchange by 4:00 p.m. ET on the last business day in December of either 2015 or 2016, provided the Exchange continues to offer the 1 Year Prepayment Program at that time.

The Exchange is proposing to allow NYSE Amex Options Market Makers in the 3 Year Prepayment Program to ''opt out'' under certain circumstances, thereby relieving the Market Maker of any remaining payment obligations.[29] NYSE Amex Options Market Makers would be permitted to ''opt out'' only if:

1. NYSE Amex Options equity and ETF options market share over any consecutive 3-month period during 2015 falls below 7.5% of total equity options and ETF options volume;[30] or
2. NYSE Amex Options equity and ETF options market share over any consecutive 3-month period during 2016 falls below 7.0% of total equity options and ETF options volume; or
3. the Exchange reduces the transaction fees in Tiers 1 through 6 in Section I.C. by 70% or more compared to the rates as of January 2, 2015;[31] or
4. the Exchange reduces each and every fee in Section I.G. charged to NYSE Amex Options Market Makers by 70% or more compared to the rates as of January 2, 2015;[32] or
5. as of January 4, 2016 or January 3, 2017 there are fewer than 4 participants in the 1 Year and 3 Year Prepayment Programs combined.[33]

Once opted out of the 3 Year Prepayment Program, a Market Making firm cannot opt back into the 3 year Prepayment Program, but may opt into the 1 Year Prepayment Program provided they email the Exchange by the last business day of December of 2015 or 2016, and provided that the Exchange continues to offer the 1 Year Prepayment Program at that time.

The Exchange believes the proposed Prepayment Programs will enable it to compete more effectively with other options exchanges that offer similar programs.[34]

[27] The Exchange will apply the prepayment as a credit against charges incurred under Section I.C., I.G., or III.A. of the Fee Schedule. Once the prepayment credit has been exhausted, the Exchange will invoice the NYSE Amex Options Market Maker at the appropriate rates under Section I.C., I.G., or III.A. In the event that the NYSE Amex Options Market Maker does not conduct sufficient activity to exhaust the entirety of their prepayment credit within the calendar year, there will be no refunds issued for any unused portion of their prepayment credit.

[28] The NYSE Amex Market Maker would be required to send an email to the Exchange at *optionsbilling@nyse.com*. The email to enroll in the Prepayment Program must originate from an officer of the NYSE Amex Options Market Maker firm and, except as provided for below, represents a binding commitment for the 1- or 3-year term to which the NYSE Amex Options Market Making firm commits, requiring payment according to the schedule described above.

[29] To effectuate early termination, an NYSE Amex Options Market Making firm must send an email to *optionsbilling@nyse.com* requesting to opt out. The opt out request must be submitted by 4:00 p.m. ET at least five business days preceding the date(s) on which payment is due for any year(s) for which the NYSE Amex Options Market Maker wishes to opt out. Specifically, to opt out for 2016, the request must be submitted by 4:00 p.m. ET on January 22, 2016 and to opt out for 2017, the request must be submitted by 4:00pm ET on January 24, 2017. Anytime a NYSE Amex Options Market Making firm opts out, they would also forfeit the ability for an OFP Affiliate to earn the enhanced credit(s) described below in proposed Section I.E. for any subsequent year(s) in which they have opted out. Opting out does not entitle a NYSE Amex Options Market Making firm to any refund of monies already paid under the Prepayment Program, but only relieves them of the obligation to make remaining payments, if any, if they opted into the 3 Year Prepayment Program.

[30] Market share is determined based on cleared volumes statistics for both equity and ETF options volumes as reported by the OCC. *See* OCC Monthly Statistics Reports, *available here, http://www.theocc.com/webapps/monthly-volume-reports* (including for equity options and ETF options volume, subtotaled by exchange, along with OCC total industry volume). Relying on OCC data, the Exchange will compute market share by using NYSE Amex Options total equity and ETF option volumes for the most recent, prior three-months as the numerator and OCC equity and ETF option volumes (across all options markets) for the same three months as the denominator. Any time this calculation yields a result less than 7.5% during 2015 or 7.0% during 2016, rounding to the nearest tenth (*i.e.,* one place to the right of the decimal) and using standard rounding by Microsoft Excel®, a NYSE Options Market Maker in the 3 Year Prepayment Program would be eligible to opt out.

[31] For example, as previously described in proposed Section I.C., a NYSE Amex Options Market Maker will be charged for Electronic transactions according to the Sliding Scale. In the example set forth above in the description of Section I.C., the NYSE Amex Options Market Maker that transacted 6,000,000 contracts in a month with industry Customer equity and ETF option volume of 252,000,000 contracts would qualify for the rates inclusive of Tiers 1 through 7. Tier 7 covers volumes in excess of 2.00% of industry Customer equity and ETF option volume and is an infinite Tier with no upper bound on volume. Therefore, in calculating the 70% reduction in fees charged under Section I.C., the Exchange will only consider fees for transactions charged under Tiers 1 through 6. Anytime the aggregate fees charged for all of the volumes associated with Tiers 1 through 6 are reduced by 70% or more when compared with the aggregate fees charged for all of the volumes for Tiers 1 through 6 as of January 2, 2015, a NYSE Amex Options Market Maker would be eligible to opt out.

The amount of volume represented by Tiers 1 to 6 will likely change from month to month, as those tiers are expressed as a percentage of total monthly industry Customer equity option and ETF option volume. In the initial example, Tiers 1 to 6 represent volume of 5,040,000 contracts (2% of 252,000,000), which would cost each NYSE Amex Options Market Maker transacting 5,040,000 contracts $567,000. If the Exchange were to reduce the cost to trade 5,040,000 contracts (in a month when total industry Customer equity option and ETF option volume was 252,000,000 contracts) by at least 70% or $396,900, then a valid opt out opportunity would exist.

Continuing the example, if, in a subsequent month, total industry Customer and equity option and ETF option volume is 200,000,000 contracts, Tiers 1 to 6 would represent contract volume of 4,000,000 contracts (2% of 200,000,000). Under the Sliding Scale in effect as of January 2, 2015, any NYSE Amex Options Market Maker would have been charged $450,000 to transact 4,000,000 during a month in which total industry Customer equity option and ETF option volume is 200,000,000. If the Exchange were to reduce the cost to trade 4,000,000 contracts (in a month when total industry Customer equity option and ETF option volume was 200,000,000 contracts) by at least 70% or $315,000, then a valid opt out opportunity would exist.

[32] As of January 2, 2015, a NYSE Amex Options Market Maker transacting in CUBE Auctions would pay the rates assessed to Non-Customers, which includes a CUBE Order Fee of $0.20, a Contra Order Fee of $0.05, and a RFR Response Fee of $0.55 for Penny Pilot and $0.90 for Non-Penny Pilot. A 70% reduction in each and every one of these rates would be required in order for that Market Maker to be eligible to opt out.

[33] Upon request, the Exchange will provide any participant a count of the total participants in the 1 Year and 3 Year Prepayment Programs combined, as of either January 4, 2016 or January 3, 2017. Should there be fewer than 4 participants in the 1 Year and 3 Year Prepayment Programs combined, an NYSE Amex Options Market Maker in the 3 Year Prepayment Program may opt out. Under no circumstances will the identity of any participant in either the 1 Year or the 3 Year Prepayment Program be disclosed to any other participant.

[34] *See, e.g.,* CBOE fee schedule, *available here, http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf* (the ''Liquidity Provider Sliding Scale''); *see also* Securities Exchange Act

Continued

Section I.E. Amex Customer Engagement (''ACE'') Program—Standard Options

The current Fee Schedule includes OFP Electronic ADV Tiers (Tiers 1A and Tier 1B) as well as Customer Electronic Complex Order ADV Tiers (collectively, the ''Tiers'') and rebates per contract for certain Electronic equity and ETF options volume under ''NYSE Amex Options: Trade-Related Rebates or Subsidies for Standard Options.'' [35] Current Endnote 17 provides information about how an OFP qualifies to meet the criteria set forth in the Tiers. The Exchange is proposing to eliminate the existing Tiers and related Endnote 17 and to instead adopt the Amex Customer Engagement (''ACE'') Program.

Under the current Fee Schedule, OFPs earn rebates based on achieving certain volume thresholds. The current Customer Electronic Complex Order ADV Tiers are fixed tiers based on set numerical ranges. For example, Tier 1 is a volume threshold of 35,000 to 49,999 contracts—paying a rebate of $0.04 per contract; Tier 2 is a volume threshold of 50,000 to 69,999—paying a rebate of $0.06 per contract; Tier 3 is a volume threshold of 70,000 to 109,999—paying a rebate of $0.08 per contract; and Tier 4 is a volume threshold of 110,000 and greater—paying a rebate of $0.10 per contract.

The proposed ACE Program likewise features four tiers. However, the proposed tiers would be expressed as a percentage of total industry Customer equity and ETF option ADV.[36] The Exchange believes that expressing the tiers as a percentage rather than a fixed numerical range would be more easily understood by market participants given the widespread use of this metric among other exchanges.[37] The current OFP ADV Tier 1A and Tier 1B are more similar to the structure of the proposed ACE Program as these tiers are expressed as a percentage of total industry Customer equity and ETF option volume, as opposed to being based on fixed numerical ranges.

As proposed, the ACE Program would offer the potential to earn a higher per contract credit for Customer volumes than is possible under any of the existing Tiers, due in part to the proposed ability of an OFP to aggregate its volume with any affiliates under the ACE Program. For example, the proposed credits under the ACE Program would range from $0.13 for qualifying volumes that reach Tier 2, to as high as $0.20 per contract for qualifying volumes that reach Tier 4 for those OFPs that have an Affiliated NYSE Amex Options Market Maker participating in the 3 Year Prepayment Program previously described.[38] Specifically, the proposed ACE Program would consist of a four-tiered schedule of per contract credits payable to an OFP solely for Electronic Customer volume that the OFP, as agent, submits to the Exchange.[39] The ACE Program would offer the following two methods for OFPs to receive credits:

1. By calculating, on a monthly basis, the average daily Customer contract volume an OFP executes Electronically on the Exchange as a percentage of total industry Customer equity and ETF options ADV; [40] or

2. By calculating, on a monthly basis, the average daily contract volume an OFP executes Electronically in all participant types (*i.e.,* Customer, Firm, Broker-Dealer, NYSE Amex Options Market Maker, Non-NYSE Amex Options Market Maker, and Professional Customer) on the Exchange, as a percentage of total industry Customer equity and ETF options ADV,[41] of which at least 20% must be Customer volume executed Electronically.

Upon reaching a higher tier, an OFP would receive for all eligible Customer volume the per contract credit associated with the highest tier achieved, retroactive to the first contract traded each month, regardless of which of the two calculation methods the OFP qualifies under. In the event that an OFP is eligible for credits under both calculation methods, the OFP would benefit from whichever criterion results in the highest per contract credit for all the OFP's eligible ADV. For example, if an OFP's Customer Electronic ADV is 1.51% of total industry Customer equity and ETF option ADV, it would receive the Tier 3 credits for each qualifying Customer Standard Option contract the OFP executes, as agent. Alternatively, if an OFP has total Electronic ADV which falls into Tier 3 (1.50% to 3.50% of total industry customer equity and ETF option ADV), of which 20% or more is Customer volume, the OFP will be eligible to earn the Tier 3 credits for their eligible Customer volumes. The tiers and associated per contract credits that apply to Electronic transactions are shown in the table below.

Release No. 70498 (September 25, 2013), 78 FR 60348 (October 1, 2013) (SR–MIAX–2013–43) (immediate effectiveness of program allowing participating members to prepay certain transaction fees).

[35] On the current Fee Schedule this is the second to last section right before ''NYSE Options: General.''

[36] In calculating ADV, the Exchange will utilize monthly reports published by the OCC for equity options and ETF options that show cleared volume by account type. *See* OCC Monthly Statistics Reports, *available here, http://www.theocc.com/webapps/monthly-volume-reports* (including for equity options and ETF options volume, subtotaled by exchange, along with OCC total industry volume). The Exchange will calculate the total OCC volume for equity and ETF options that cleared in the Customer account type and divide this total by the number of trading days for that month (*i.e.,* any day the Exchange is open for business). For example, in a month having 21 trading days where there were 252,000,000 equity option and ETF option contracts that cleared in the Customer account type, the calculated ADV would be 12,000,000.

[37] *See, e.g.,* MIAX fee schedule, *available here, http://www.miaxoptions.com/sites/default/files/MIAX_Options_Fee_Schedule_12012014.pdf* (offering Priority Customer Rebate Program that features tiers based on a Percentage Thresholds of National Customer Volume in Multiply-Listed Options Classes Listed on MIAX); CBOE fee schedule, *available here, http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf* (offering a Volume Incentive Program that features tiers based on Percentage Thresholds of National Customer Volume in All Underlying Symbols (with certain exclusions)); and PHLX fee schedule, *available here, http://www.nasdaqtrader.com/Micro.aspx?id=PHLXPricing* (offering a Customer Rebate Program based on Percentage Thresholds of National Customer Volume in Multiply-Listed Equity and ETF Options Classes, excluding SPY Options).

[38] By contrast, the highest credit possible under the Customer Electronic Complex ADV Tiers is $0.10 per contract and the highest credit under Tier 1A or Tier 1B of the OFP ADV Tiers is $0.06 per contract.

[39] Electronic Customer volume is volume executed electronically through the Exchange System, on behalf of an individual or organization that is not a Broker-Dealer and who does not meet the definition of a Professional Customer.

[40] *See supra* n. 36.

[41] *Id.*

PROPOSED TABLE SHOWING AMEX CUSTOMER ENGAGEMENT PROGRAM—ELECTRONIC

Tier	ACE program—standard options			Credits payable on customer volume only		
	Customer electronic ADV as a % of industry customer equity and ETF options ADV	OR	Total electronic ADV (of which 20% or greater must be customer) as a % of industry customer equity and ETF options ADV	Customer volume credits	1 year enhanced customer volume credits	3 year enhanced customer volume credits
1	0.00% to 0.75%		N/A	$0.00	$0.00	$0.00
2	>0.75% to 1.00%		N/A	(0.13)	(0.13)	(0.13)
3	>1.00% to 2.00%		1.50% to 3.50%	(0.14)	(0.16)	(0.18)
4	>2.00%		>3.50%	(0.14)	(0.16)	(0.20)

In calculating an OFP's Electronic volume for purposes of determining which tier of credits (if any) the OFP may be eligible, the Exchange would:

- Exclude any volume resulting from Mini Options and QCC trades as these transactions are subject to separate fees and/or credits (discussed in Sections I.B. and I.F.);
- Exclude any volume attributable to orders routed away in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Rule 991NY;
- Include any volume from CUBE Auction executions; [42]
- Include any Electronic volume of Affiliates of the OFP, such as when an OFP has an Affiliated NYSE Amex Options Market Making firm, provided proper notice has been given to the Exchange; [43]
- Any day the Exchange is open, regardless of length, will count as a full day when calculating ADV.

The Exchange notes that the credits shown under the ''1 Year Enhanced Customer Volume Credits'' and the ''3 Year Enhanced Customer Volume Credits'' are only available to those OFPs that have an Affiliated NYSE Amex Options Market Making firm that has committed to either the 1 Year Prepayment Program or the 3 Year Prepayment Program, as described in proposed Section I.D.[44]

The proposed ACE Program is designed to simplify the existing rebate programs (by combining the current Customer Electronic Complex ADV Tiers with the current OFP ADV Tiers), while also remaining competitive with rebate programs offered on other exchanges.[45] At the same time, the Exchange believes the proposed ACE Program would attract more volume and liquidity to the Exchange, which will benefit all Exchange participants through increased opportunities to trade as well as enhancing price discovery.

Section I.F. QCC Fees & Credits—Standard and Mini Options

The current fees for Qualified Contingent Cross trades are set forth in a table under ''NYSE Amex Options: Qualified Contingent Cross (''QCC'') Fees.'' The Exchange proposes to modify its QCC fees and credits and reformat the table in the Fee Schedule under Section I. F.

The Exchange proposes to eliminate the discounted rate per contract for e-Specialists and Specialists that transact 50,000 contracts or more ADV.[46] Consequently, e-Specialists and Specialists that receive an execution as part of a QCC trade would be charged the rate for a Standard Options Manual transaction, or $0.13 per contract.

The Exchange also proposes non-substantive changes to the current table illustrating QCC pricing. Specifically, as noted in Section I.B. above, the Exchange proposes to incorporate the information regarding the fees and credits for QCC trades involving Mini Options into the existing table for QCC transactions so that all information regarding QCC transactions are in one place and also to include the information from existing Endnote 15 regarding Floor Brokers as note 1 to immediately follow the table, with slight stylistic, non-substantive textual changes.

Section I.G. CUBE Auction Fees & Credits—Standard Options

The current Fee Schedule sets forth a table of the fees associated with executions in a CUBE Auction under ''NYSE Amex Options: CUBE Auction Fees.'' [47] The Exchange is not proposing any substantive change to the fees for contracts executed in CUBE Auctions for Standard Options, but the Exchange is moving the existing CUBE Auction Rebates found under ''NYSE Amex Options: Trade-Related Rebates or Subsidies for Standard Options'' to this section so all CUBE related fees and credits are located in one place.

The Exchange also proposes to add introductory language, taken from the existing CUBE Auction Rebates, to precede this table, which states, in relevant part, ''Credits are payable to the Initiating Participant for each contract in an order paired with a CUBE Order that does not trade with the CUBE Order because it is replaced in the auction. The table below shows the credits payable to the Initiating Participant for executions associated with a CUBE Auction.'' [48] The Exchange believes that this proposed language would add clarity to the Fee Schedule and aid in

[42] Though included in an OFP's Electronic volume calculation, contracts executed in CUBE Auctions would not be eligible to earn any credits under the proposed ACE Program, as there are separate credits paid for certain CUBE Auction volumes. *See* Section I. G. below.

[43] In order to have an Affiliate's trading activity included with its own, an OFP must email the Exchange at *optionsbilling@nyse.com* with such request and provide the Exchange with a list of the OFP's Affiliated entities. The Exchange defines an ''Affiliate'', or person ''affiliated'' with a specific person, as ''a person that directly or indirectly through one or more intermediaries, has a 70% common ownership with, the person specified.'' *See* proposed Fee Schedule, Key Terms and Definitions.

[44] Thus, if a NYSE Amex Options Market Making firm that has committed to the 3 Year Prepayment Program opts out before 4 p.m. ET on January 22, 2016, the OFP Affiliated with that NYSE Amex Options Market Maker will be ineligible to earn the 3 Year Enhanced Customer Volume Credits for their activity during any part of calendar years 2016 or 2017. If, however, the same firm were to subsequently opt into a 1 Year Prepayment Program, its OFP Affiliate would be eligible to earn the 1 Year Enhanced Customer Volume Credits for the calendar year in which the firm opted in.

[45] *See supra* n. 37. *See e.g.,* CBOE fee schedule, *available here, http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf* (the ''Volume Incentive Program'', pays rebates as high as $0.17 per contract for complex volumes under tier 4); PHLX fee schedule, *available here, http://www.nasdaqtrader.com/Micro.aspx?id=PHLXPricing* (''Customer Rebate Program'', Program pays rebates as high as $0.19 per contract under tier 5 for Category B rebates); MIAX fee schedule, *available here, http://www.miaxoptions.com/sites/default/files/MIAX_Options_Fee_Schedule_12102014.pdf* (''Priority Customer Rebate Program'', pays rebates as high as $0.20 per contract in Select Symbols, under tier 5).

[46] As previously discussed, the Exchange proposes to eliminate Endnote 5. *See* discussion in Section I.A.

[47] On the current Fee Schedule, this section immediately follows ''NYSE Amex Options: Qualified Contingent Cross (''QCC'') Fees.''

[48] *See* proposed Section I.G. of the Fee Schedule.

market participants' comprehension as to how fees and credits are applied in CUBE Auctions.

Section I.H. Market Access and Connectivity (''MAC'') Subsidy

The current Fee Schedule includes the MAC Subsidy under ''NYSE Amex Options: Trade-Related Rebates or Subsidies for Standard Options.'' In connection with its reorganization of the Fee Schedule, the Exchange is proposing to move the description and schedule of the MAC Subsidy to Section I.H. of the Fee Schedule. The Exchange is not proposing any substantive changes to the MAC Subsidy.

Section I.I. Firm Monthly Fee Cap

In connection with its reorganization of the Fee Schedule, the Exchange is proposing to move the description of the Firm Monthly Fee Cap from Endnote 6 to Section I.I. of the Fee Schedule. The current Fee Schedule sets forth the Firm Monthly Fee cap in Endnote 6. The Exchange is not proposing any substantive changes to this Fee Cap, but has made some stylistic changes to the text that previously appeared in Endnote 6, including streamlining the text so that it is more clear and concise.

Section I.J. Strategy Execution Fee Cap

The current Fee Schedule includes information about the proposed Strategy Execution Fee Cap under ''Limits on Option Strategy Executions.'' [49]

The Exchange is not proposing any substantive changes for the Strategy Execution Fee Cap. The Exchange is proposing several non-substantive changes, including incorporating the information from the related Endnotes 8 (a)–(e) into the section, as well as making some stylistic changes to the text, including streamlining the text so that it is more clear and concise.

Section I.K. Royalty Fees

In connection with its reorganization of the Fee Schedule, the Exchange is proposing to move the description of Royalty Fees, together with related information in Endnote 11, to Section I.K. of the Fee Schedule. The current Fee Schedule sets forth the Royalty Fees assessed by the Exchange under a heading of the same name.[50] The Exchange is not proposing any substantive changes to its Royalty Fees; rather it is proposing to modify the table that illustrates the applicable per contract rate for each participant type by incorporating text currently referenced in Endnote 11.

Section I.L. Routing Surcharge

The Exchange is not proposing any changes with respect to the existing Routing Surcharge or related information in Endnote 7. The only non-substantive change that affects proposed Section I.L. relates to the re-ordering and reorganization of the Fee Schedule as a whole.

Section II. Monthly Excessive Bandwidth Utilization Fees

In connection with its reorganization of the Fee Schedule, the Exchange is proposing to move the description of order to trade ratio fees and message to contract traded ratio fees, together with referenced information in Endnote 12, to Section II. Proposed Section II would have two Subparts. Subpart A would set forth the monthly charge for order to trade ratios that exceed certain levels. Subpart B would set forth the fees assessed by the Exchange to ATP Holders per message that exceed certain ratios of messages to contracts traded.

The current Fee Schedule includes these fees under ''NYSE Options: Excessive Bandwidth Utilization Fees.'' Endnote 12 is referenced in applying these fees. The Exchange is not proposing any substantive changes to these fees. The only non-substantive changes the Exchange is proposing are some stylistic changes to the text, including streamlining the text so that it is more clear and concise.

Section III.A. Monthly ATP Fees

The current Fee Schedule sets forth the monthly fees for trading permits (''ATPs'') under ''NYSE Options: General Options and Trading Permits (ATP) Fees, ATP Trading Participants Rights.'' In connection with its reorganization of the Fee Schedule, the Exchange is proposing to move the description of these fees to Section III.A. The Exchange does not propose any substantive changes to these fees, but is proposing to provide the fee information in table format, which the Exchange believes will make the information easier to digest and aid in the goal of enhancing the overall comprehensibility of the proposed Fee Schedule. The Exchange is also proposing to include details of how the ''Bottom 45%'' [51] of issues traded is calculated for purposes of the application of certain monthly fees to NYSE Amex Options Floor Market Makers in the text prior to the fee table. This information is currently in the Fee Schedule, but appears after the ATP fees.

Section III.B. Floor Access Fee

In connection with its reorganization of the Fee Schedule, the Exchange is proposing to move the Floor Access Fee description to Section III.B. The current Fee Schedule sets forth this fee under ''NYSE Options: General Options and Trading Permits (ATP) Fees, ATP Trading Participants Rights, Floor Access Fee.'' The Exchange does not propose any substantive changes to this information. The only non-substantive changes that affects this section relates to the capitalization of ''Floor,'' as it is now a defined term in the proposed Key Terms and Definitions.[52]

Section III.C. e-Specialist, DOMM and Specialist Monthly Rights Fees

In connection with its reorganization of the Fee Schedule, the Exchange is proposing to move the e-Specialist, DOMM and Specialist Monthly Rights Fees to Section III.C. The current Fee Schedule sets forth these fees under ''NYSE Options: General Options and Trading Permits (ATP) Fees, Specialist/e-Specialist/DOMM Rights Fee,'' and related Endnote 1. The Exchange is not proposing any substantive changes to these fees. The Exchange proposes the non-substantive formatting change of incorporating the information that is in Endnote 1 as introductory text to this section, with slight stylistic changes to the text for streamlining and consistency purposes. The Exchange also proposes to include note 1 to the fee table in this section regarding the ''grandfathering'' of certain options issues after mid-2012, the text of which is consistent with the language is the asterisk in the current Fee Schedule.

Section III.D. NYSE Amex Options Market Maker Monthly Premium Product Fee

In connection with its reorganization of the Fee Schedule, the Exchange is proposing to move the NYSE Amex Options Market Maker Monthly Premium Product Fee to Section III.D. The current Fee Schedule includes the fees in a one-row table entitled ''Premium Product Issue List—Monthly NYSE Amex Options Market Maker Participation Fee.'' The Exchange does not propose any substantive changes to these fees. The only change the Exchange proposes is to put the fees in table format, which the Exchange

[49] This section appears in the current Fee Schedule immediately below the Routing Surcharge and immediately above the Marketing Charge.

[50] This section appears in the current Fee Schedule immediately below the Marketing Charge.

[51] *See* Securities Exchange Act Release No. 67764 (August 31, 2012), 77 FR 55254 (September 7, 2012) (SR–NYSEMKT–2012–44).

[52] The Exchange defines ''Floor'' or ''Trading Floor'' as ''the options trading floor located at 11 Wall Street, New York, NY.'' *See* proposed Fee Schedule, Key Terms and Definitions.

believe will make the information easier to digest and aid in the goal of enhancing the overall comprehensibility of the proposed Fee Schedule.

Section IV. Monthly Floor Communication, Connectivity, Equipment and Booth or Podia Fees

In connection with its reorganization of the Fee Schedule, the Exchange is proposing to move the description of Floor Communication, Connectivity, Equipment and Booth or Podia monthly fees to Section IV. Currently, these fees are set forth under ''NYSE Amex Options: Floor and Equipment Fees'' and ''NYSE Amex Options: Connectivity Charges.'' The Exchange is not proposing any changes to these fees. The Exchange is proposing to show these fees in table format, which the Exchange believes would make the information easier to digest and aid in the goal of enhancing the overall comprehensibility of the proposed Fee Schedule. The Exchange notes that the two ''Connectivity'' charges from the existing Fee Schedule are represented as the second and third charges in the proposed table (*i.e.,* Login and Transport charges).

Section V. Technology & System Access Fees

A. Port Fees and B. Co-Location Fees

In connection with its reorganization of the Fee Schedule, the Exchange is proposing to move the fees of Ports and Co-Location services to Section V of the Fee Schedule. The current Fee Schedule includes these fees in a table entitled ''Port Fees'' and a series of tables following the heading ''Co-Location Fees.'' The Exchange is not proposing any changes to its Port and Co-Location Fees. The Exchange is proposing to include the text from the asterisks in as language preceding the respective tables for port and co-location fees.

Section VI. Report Fees

In connection with its reorganization of the Fee Schedule, the Exchange is proposing to move the fees for reports to Section VI of the Fee Schedule. The current Fee Schedule includes these fees under ''Report Fees.'' The Exchange is not proposing any changes to these fees.

Section VII. Regulatory Fees

A. Options Regulatory Fee and B. Other Regulatory Fees

The current Fee Schedule includes this information under ''Regulatory Fees.'' The Exchange is not proposing any substantive changes to this section of the Fee Schedule and there are no related Endnotes. The only non-substantive change that affects this section relates to the reordering and reorganization of the Fee Schedule as a whole.

Section VIII. Service Fees

A. Post-Trade Adjustments

The current Fee Schedule includes this information under ''Service Fees.'' The Exchange is not proposing any substantive changes to this section of the Fee Schedule and there are no related Endnotes. The only non-substantive change that affects this section relates to the reordering and reorganization of the Fee Schedule as a whole.

Elimination of the Specialist Options Issue Transfer Fee

Finally, the Exchange presently charges a fee of $100 per issue for each option a Specialist transfers to another NYSE Amex Options Market Making firm that is acting as a Specialist. The fee is charged to the transferor. At this time the Exchange is proposing to eliminate this fee because the Exchange believes this fee may operate as a disincentive against the transfer of options. Typically, option issues are transferred as a result of a firm re-organizing or exiting the Specialist business. In such instances, the Exchange would prefer that the options be transferred as opposed to delisted so that other Exchange participants may continue to trade the option in question.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[53] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[54] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

Non-Substantive Changes

The Exchange believes that the non-substantive changes to the Fee Schedule, which include re-formatting, reorganization (including adding a Table of Contents section), importing text from the current Fee Schedule and streamlining certain text, is reasonable, equitable and not unfairly discriminatory because the changes are designed to make the Fee Schedule more logical and comprehensive and, therefore, easier for market participants to navigate and digest, which is in the public interest.

Substantive Changes

The Exchange believes that adopting the Preface and Key Terms and Definitions sections in the proposed Fee Schedule is reasonable, equitable and not unfairly discriminatory because the changes are designed to enable market participants to better understand how the Exchange defines various transactions and market participants as well as how the Exchange imposes fees and credits on each market participants, which should make the overall Fee Schedule more transparent and comprehensive to the benefit of the investing public.

The Exchange believes that adopting a base rate of $0.23 per contract for NYSE Amex Market Maker Electronic transactions is reasonable, equitable and not unfairly discriminatory for the following reasons. First, the proposed change applies equally to all NYSE Amex Options Market Makers. Second, the proposed rate falls within the range of fees charged to market makers on other exchanges.[55] For example, the base rate for market makers in equity options on the CBOE is also $0.23.[56] The Exchange notes that the newly proposed base rate is an increase in the rate(s) charged to each of Specialists, e-Specialists, DOMMs and NYSE Amex Options Market Makers (regardless of whether each is trading more or less than 50,000 contracts ADV) and, while this proposed base rate increase would not impact other Exchange participants directly, the Exchange believes the rate increase would have an indirect benefit on other market participants. For example, some proceeds from this increase would fund the credits made available under the ACE Program. Because the ACE Program is designed to attract more volume and liquidity to the Exchange, the Exchange believes this rate increase will benefit all Exchange participants through increased opportunities to trade as well as enhancing price discovery. For these reasons, the Exchange believes that the proposal to adopt a base rate of $0.23 per contract for Electronic NYSE Amex Options Market Maker transactions is reasonable, equitable and not unfairly discriminatory.

The Exchange also believes that eliminating the $0.10 per contract

[53] 15 U.S.C. 78f(b).

[54] 15 U.S.C. 78f(b)(4) and 78f(b)(5).

[55] *See supra* n. 14.

[56] *See* CBOE fee schedule, *available here, http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf* (the ''Liquidity Provider Sliding Scale'').

charge for SPY Electronic Complex executions for NYSE Amex Options Market Makers such that the cost of these Electronic option transactions would at times be greater than the flat rate (*e.g.,* as much as $0.23 per contract under proposed Section I.A.) or lower (*e.g.,* as low as $0.02 per contract under proposed Section I.C.) is reasonable, equitable and not unfairly discriminatory because this change would simplify the Exchange's pricing structure, which benefits investors, and apply equally to all NYSE Amex Options Market Makers.

The Exchange believes the proposals to eliminate the $350,000 per month Market Maker fee cap (''$350K cap'') and the associated $0.01 or $0.10 service fees [57] as well as the $0.03 per contract discount offered to NYSE Amex Options Market Makers that transact at least 50,000 contracts ADV during a month (the ''$0.03 discount'') are reasonable, equitable and not unfairly discriminatory because, as discussed below, the Exchange proposes to replace these two Exchange-offered discounts with the NYSE Amex Options Market Maker Sliding Scale—Electronic (''Sliding Scale''). The proposed Sliding Scale provides the opportunity for NYSE Amex Options Market Makers to earn volume-based discounts for transactions on the Exchange, as they do today, using a different methodology. The $350K cap is a fixed, ''all or nothing'' threshold that enabled Market Makers that hit the cap to immediately become eligible to trade for as little as $0.01 per contract, whereas Market Makers that did not hit the cap continued to either trade at their respective base rates (*i.e.,* Specialist or e-Specialist rates versus DOMM and Non-DOMM rates) or to trade at their base rates discounted by $.03, if that Market Maker achieved at least 50,000 contract ADV. The Exchange believes the proposed Sliding Scale is a fair and reasonable replacement for the current volume discounts offered by the Exchange. The Sliding Scale would provide a volume discount to NYSE Amex Options Market Makers on a more graduated basis than the current fee cap and discounts. The Exchange believes that the Sliding Scale methodology for providing volume based discounts is fair and reasonable in the same way that the current volume discounts are. Further, the proposal is equitable because the elimination of the $350K cap, $0.01 or $0.10 service fees, and the $0.03 discount, would apply equally to all NYSE Amex Options Market Makers and the Sliding Scale would, likewise, apply to NYSE Amex Options Market Makers. In addition, as discussed below, the Exchange believes it is fair and reasonable to offer the Sliding Scale solely to Market Makers because of the heightened obligations imposed on Market Makers, including continuous quoting obligations.

The Exchange believes that adopting the Sliding Scale is reasonable, equitable and not unfairly discriminatory for the following reasons. First, all NYSE Amex Market Makers are eligible to avail themselves of the Sliding Scale, which sets forth objective criteria for earning lower rates based on reaching stated volume thresholds on the Exchange. Second, the Exchange believes it is reasonable and appropriate that Market Makers be charged fees on the Exchange that may be comparably lower than other market participants in certain circumstances when they provide greater volumes of liquidity to the market because Market Makers have obligations that other market participants do not. In particular, they must maintain active two-sided markets in the classes in which they are appointed, and must meet certain minimum quoting requirements.[58] Further the Exchange notes that Market Makers are also subject to higher fixed costs, not assessed upon other market participants, such as the relatively more expensive ATP fees applicable to Market Makers, Rights Fees, and Premium Product Fees.[59]

In addition, the Sliding Scale is based on the amount of business transacted on—and is designed to attract greater volume to—the Exchange. The Exchange believes an increase in volume and liquidity would benefit all market participants by providing more trading opportunities and tighter spreads, even to those market participants that are not eligible for the Sliding Scale (*i.e.,* non-NYSE Amex Market Makers). Additionally, the Exchange believes the Sliding Scale is consistent with the Act because, as described above, the Program is designed to bring greater volume and liquidity to the Exchange, which will benefit all market participants by providing tighter quoting and better prices, all of which perfects the mechanism for a free and open market and national market system. In addition, the Exchange also notes that several competing option exchanges currently offer a tiered or sliding scale to market makers. For example, the CBOE currently offers a sliding scale to their market makers that ranges from $0.23 down to $0.03 per contract based on volume, which is comparable to the proposed Sliding Scale, which ranges from $0.23 down to $0.02 per contract and is also based on volume.[60] Similarly, both the Boston Options Exchange LLC (''BOX'') and Miami Securities International Exchange, LLC (''MIAX'') offer tiered or sliding scale rates for market makers.[61] For the foregoing reasons, the Exchange believes the proposed adoption of the Sliding Scale is reasonable, equitable and not unfairly discriminatory.

The Exchange proposal to adopt ''Prepayment Programs'' that allow NYSE Amex Options Market Makers to prepay a portion of certain Exchange transaction fees or charges (for a one- or three-year period) is also reasonable, equitable and not unfairly discriminatory for the following reasons. First, the proposal is reasonable, equitable and not unfairly discriminatory because all NYSE Amex Options Market Makers may elect to participate (or elect not to participate) in either of the Prepayment Programs. In addition, the Exchange notes that other options exchanges likewise offer Prepayment Programs, available only to market makers. For example, under CBOE's Liquidity Provider Sliding Scale, a CBOE market maker may be eligible for the lower rates associated with tiers 3 through 5 by prepaying $2.4 million in fees.[62] Moreover, similar to the proposed Sliding Scale, the Prepayment Programs are designed to incent Market Makers to commit to directing their order flow to the Exchange, which would benefit all market participants by expanding liquidity, providing more trading opportunities and tighter spreads, even to those market participants that are not eligible for the Programs. Thus, the Exchange believes the Prepayment Programs are reasonable, equitable and not unfairly discriminatory to other

[57] Currently, capped Market Makers pay either an incremental service fee of $.01 per contract for volumes over 3,500,000 contracts per month or $0.10 per contract for Complex volumes upon reaching the $350K cap.

[58] *See, e.g.,* Rule 925.1NY(c).

[59] *See* proposed Sections III.A.,C. and D., respectively.

[60] *See supra* n. 56.

[61] *See* BOX fee schedule, *available here, http://boxexchange.com/assets/BOX_Fee_Schedule.pdf* (''Tiered Volume Rebate for Market Makers''); MIAX fee schedule, *available here, http://www.miaxoptions.com/sites/default/files/MIAX_Options_Fee_Schedule_12102014.pdf* (''Market Maker Sliding Scale'').

[62] *See* CBOE fee schedule, *available here, http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf,* footnote 10 (a market maker may be permitted to pay a pro-rated amount of the $2.4 million if, for example, they join the program mid-year).

market participants because non-Market Makers and other market participants will benefit from the anticipated greater capital commitment and resulting liquidity on the Exchange. Additionally, the Exchange believes the Prepayment Programs are consistent with the Act because they may bring greater volume and liquidity to the Exchange, which will benefit all market participants by providing tighter quoting and better prices, all of which perfects the mechanism for a free and open market and national market system. In addition, the Exchange notes that, similar to the Prepayment Programs, at least two other exchanges have offered market makers the ability to prepay a portion of their transaction fees.[63]

In addition, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to allow only Market Makers to prepay certain of their Exchange fees in exchange for receiving certain benefits because Market Makers have obligations that other market participants do not. In particular, they must maintain active two-sided markets in the classes in which they are appointed, and must meet certain minimum quoting requirements.[64] Further the Exchange notes that Market Makers are also subject to higher fixed costs, not assessed upon other market participants, such as the relatively more expensive ATP fees applicable to Market Makers, Rights Fees, and Premium Product Fees.[65]

The Exchange proposal to require NYSE Amex Options Market Makers who opt into the 3 Year Prepayment Program to pay $3 million per year for 3 years compared to those opting into the 1 Year Prepayment Program who will pay $4 million per year is reasonable, equitable and not unfairly discriminatory. As explained above, the Prepayment Program is a credit against certain Exchange fees and charges. Any activity that exceeds the amount of the Prepayment credit will be invoiced at the applicable rates in Sections I.C, I.G., or III.A. of the fee schedule. As such, all NYSE Amex Options Market Makers (those who do not participate in the Prepayment Program, those who participate in the 1 Year Prepayment Program and those who participate in the 3 Year Prepayment Program) will incur the same level of fees and/or charges if they conduct the same level of activity. Further, assessing a prepayment that is 25% smaller on an annual basis on firms willing to commit to the 3 Year Prepayment Program is reasonable, equitable, and not unfairly discriminatory because those firms are committing 125% more capital and are entering a multi-year arrangement that the Exchange believes will increase liquidity (which ultimately will provide ATP Holders more opportunities for trading and price discovery).

The Exchange proposal to replace the existing OFP Electronic ADV Tiers and Customer Electronic Complex Order ADV Tiers (collectively ''Tiers'') with the ACE Program is also reasonable, equitable and not unfairly discriminatory for the following reasons. First, the ACE Program is replacing the Tiers in that both pay a per contract credit to qualifying OFPs. The Exchange believes the credits offered under the ACE Program are reasonable and appropriate in that they are based on the amount of business transacted on the Exchange. Per the ACE Program, as discussed above, an OFP may earn enhanced credits if they have an Affiliated NYSE Amex Options Market Maker (*i.e.,* the entities share ''70% common ownership'' [66]) that has committed to either of the proposed Prepayment Programs. The Exchange notes that allowing an entity to earn an enhanced discount or credit in exchange for committing to a prepayment of certain fees is not new or novel.[67] Nor is it new or novel to offer affiliates enhanced discounts or credits based on the affiliates' activity, even if conducted in different capacities (*e.g.,* market maker volume versus customer volume). Notably both the NASDAQ Options Market LLC (''NOM'') and NASDAQ OMX PHLX LLC (''PHLX'') offer enhanced credits to Market Makers and PHLX offers enhanced credits to affiliates of Marker Makers on certain volumes based on an affiliate's activity. NOM aggregates the activity of affiliates and makes the availability of higher credits or rebates to NOM Market Maker's contingent upon volume conducted by an affiliate.[68] Specifically, NOM offers its Participants a Rebate to Add Liquidity In Penny Pilot Options based on monthly volume as set forth in a tier structure. Tiers 5 and 6 are available to NOM Market Makers that have an affiliate that qualifies for Tier 7 or Tier 8 of their Customer and Professional Rebate to Add Liquidity in Penny Pilot Options.[69] In its filing with the Commission, NOM noted its belief that ''its proposal to permit Participants under Common Ownership to aggregate their volume is reasonable, equitable and not unfairly discriminatory because the Exchange would permit all Participants the ability to aggregate for purposes of the rebates if certain Participants chose to operate under separate entities.'' [70]

Similarly, PHLX provides for an enhanced rebate on Customer volumes only for those participants that have an affiliated Specialist or Market Making firm under ''Common Ownership''.[71] Specifically, PHLX offers a tiered Customer Rebate Program that qualifies either a Specialist or Market Maker or its affiliate under Common Ownership to an additional rebate provided the Specialist or Market Maker has reached the Monthly Market Maker Cap in accordance with PHLX's fee schedule.[72] In its filing with the Commission, PHLX noted its belief that this additional rebate was equitable and not unfairly discriminatory because, among other reasons, Specialists and Marker Makers ''have burdensome quoting obligations,'' to the market that others market participants do not; are subject to higher transaction costs and incur higher costs related to market making activities; and ''also serve an important role on the Exchange with regard to order interaction and they provide liquidity in the marketplace.'' [73] Thus, PHLX noted that the ''proposed differentiation as between Specialists and Market Makers as compared to other market participants recognizes the differing contributions made to the trading

[63] *See supra* n. 34.

[64] *See supra* n. 58

[65] *See supra* n. 59.

[66] The Exchange defines ''Affiliates'' as ''a person that directly or indirectly through one or more intermediaries, has a 70% common ownership with, the person specified. *See* proposed Fee Schedule, Key Terms and Definitions.

[67] *See supra* n. 62.

[68] *See* NOM fee schedule, *available here, http://www.nasdaqtrader.com/Micro.aspx?id=OptionsPricing*

[69] *See id.* (stating that ''[f]or purposes of applying any options transaction fee or rebate where the fee assessed, or rebate provided, by NOM depends upon the volume of an Options Participant's activity, references to an entity (including references to a 'Options Participant') shall be deemed to include the entity and its affiliates that have been approved for aggregation'').

[70] *See* Securities Exchange Act Release No. 69132 (March 13, 2013), 78 FR 16898, 16902–16903 (March 19, 2013) (SR–NASDAQ–2013–041) (justifying higher rebate to NOM Market Makers because they ''add value through continue quotations and the commitment of capital'' and this fee structure would incentivize Participants to post NOM Market Maker liquidity on NOM).

[71] *See* PHLX fee schedule, *available here, http://www.nasdaqtrader.com/Micro.aspx?id=PHLXPricing* (defining the term ''Common Ownership'' as meaning ''members or member organizations under 75% common ownership or control'').

[72] *See id.* (Section II, Monthly Market Maker Cap). *See also* Securities Exchange Act Release No. 70969 (December 3, 2013), 78 FR 73906 [sic] (December 9, 2013) (SR–Phlx–2013–114).

[73] *See* Securities Exchange Act Release No. 70969 (December 3, 2013), 78 FR 73906 [sic], 73908 (December 9, 2013) (SR–Phlx–2013–114).

environment on the Exchange by these market participants.''

Thus, consistent with the rationales articulated by NOM and PHLX when justifying similar fee changes implemented on their exchanges, the Exchange believes that its proposal to allow affiliated OFP firms enhanced credits by having a NYSE Options Market Maker participate in one of the Prepayment Programs is reasonable, equitable and not unfairly discriminatory. First, as discussed above, unlike other market participants, Market Makers have burdensome quoting obligation to the market that do not apply to Customers, Professionals Customers, Firms and Broker-Dealers.[74] Market Makers serve an important role on the Exchange with regard to order interaction, capital commitment, and the provision of liquidity in the marketplace. Additionally, as discussed above, Market Makers incur costs unlike other market participants including, but not limited to, more expensive ATP fees applicable to Market Makers, Rights Fees, and Premium Product Fees and other costs associated with market making activities, which results in a higher average cost per execution as compared to Firms, Broker-Dealers and Professional Customers.[75] The proposed differentiation as between Market Makers as compared to other market participants recognizes the differing contributions made to the trading environment on the Exchange by these market participants.

The Exchange also believes that allowing firms enhanced credits based on the activities of their Affiliates (*i.e.,* by having a NYSE Options Market Maker participate in one of the Prepayment Programs) is also reasonable, equitable and not unfairly discriminatory for several reasons. First, the Exchange believes that OFPs affiliated (*i.e.,* have a 70% common ownership) with NYSE Amex Options Market Makers may qualify to earn enhanced credits in recognition of their shared economic interest, which includes the heightened obligations and costs imposed on Market Makers.[76] OFPs unaffiliated with a NYSE Amex Options Market Maker do not share the same type of economic interests with a Market Maker that bears higher obligations and costs. Second, because each OFP that is not affiliated with a NYSE Amex Options Market Maker has the opportunity to establish such an affiliation by several means, including but not limited to, a business combination (*e.g.,* merger or acquisition) or the establishment of their own market making operation, which as a Broker-Dealer, each OFP has the potential to establish.

In addition, the Exchange believes that the ACE Program will encourage OFPs with an Affiliated NYSE Amex Options Market Maker to direct order flow to the Exchange (especially Customer orders) in order to receive the enhanced volume credits. The Exchange believes that incentivizing OFPs to route orders to the Exchange may result in an increase in volume and liquidity to the Exchange that would benefit all market participants by providing more trading opportunities and tighter spreads, even to those market participants that do not participate in the Program, including participants other than NYSE Amex Options Market Makers, such as Firms, Professional Customers, etc. Additionally, the Exchange believes the Program is consistent with the Act because they may bring greater volume and liquidity to the Exchange, which will benefit all market participants by providing tighter quoting and better prices, all of which perfects the mechanism for a free and open market and national market system. The Exchange believes that those OFPs that do not have an Affiliated NYSE Amex Options Market Maker that has committed to a Prepayment Program would benefit from the increased order flow that those OFPs with an Affiliated NYSE Amex Options Market Maker may be incented to bring to the Exchange. The Exchange notes that it is not increasing fees for OFPs nor does it charge a fee for Customer transactions. The Exchange believes that by offering OFPs the ability to qualify to earn credits on Electronically executed Customer volumes, based solely on Customer volumes or on all Electronic volumes, the Exchange may experience an increase in the number of orders routed to the Exchange for potential execution as OFPs seek to qualify for the credits under the ACE Program. This increase in orders routed to the Exchange will lead to enhanced price discovery, increased market transparency and greater opportunities to trade, which benefits all participants on the Exchange, including those who may not be eligible to earn the credits under the ACE Program.

For the above reasons, the Exchange believes the program ACE Program is also reasonable, equitable and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange acknowledges that the proposed changes relating to transaction charges and/or credits, including the Sliding Scale and the Prepayment Programs, may increase both intermarket and intramarket competition by incenting participants to direct their orders to the Exchange, which will enhance the quality of quoting and may increase the volume of contracts traded on the Exchange. To the extent that there is an additional competitive burden on non-NYSE Amex Market Makers, the Exchange believes that this is appropriate because the proposal should incent market participants to direct additional order flow to the Exchange, and thus provide additional liquidity that enhances the quality of its markets and increases the volume of contracts traded here. To the extent that this purpose is achieved, all of the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange.

The Exchange does not believe that offering OFPs affiliated (*i.e.,* have a 70% common ownership) with NYSE Options Market Makers the ability to qualify to earn enhanced credits would impose any unnecessary or inappropriate burden on competition for several reasons. First, OFPs that are not affiliated with a market making firm would benefit from any increase in volume and liquidity on the Exchange as a consequence of the proposed enhanced credits, which would provide tighter quoting and better prices to unaffiliated OFPs. The Exchange believes that any burden on competition on unaffiliated OFPs would be outweighed by this benefit. Second, the Exchange believes it does not create an inappropriate burden on competition on unaffiliated OFPs for the Exchange to provide affiliated OFPs that share common control and shared economic interest with market making firms the ability to qualify for enhanced credits because these affiliated OFPs share the heighted obligations and fees of their affiliated Market Makers.[77] Moreover,

[74] *See supra* n. 58.

[75] *See supra* n. 59.

[76] *See supra* nn. 58, 59.

[77] *See supra* nn. 58, 59.

the Exchange would permit all OFPs the ability to aggregate for purposes of the rebates if certain OFPs chose to operate under separate entities.[78]

Given the robust competition for volume among options markets, many of which offer the same products, implementing programs to attract order flow similar to the ones being proposed in this filing, are consistent with the above-mentioned goals of the Act. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[79] of the Act and subparagraph (f)(2) of Rule 19b–4[80] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[81] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2015–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2015–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2015–04, and should be submitted on or before February 13, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[82]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01072 Filed 1–22–15; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Military Reservist Economic Injury Disaster Loans Interest Rate for Second Quarter FY 2015

In accordance with the Code of Federal Regulations 13—Business Credit and Assistance § 123.512, the following interest rate is effective for Military Reservist Economic Injury Disaster Loans approved on or after January 20, 2015.

Military Reservist Loan Program—4.000%.

Dated: January 15, 2015.

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2015–01192 Filed 1–22–15; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2015–0001]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

[78] *See, e.g.,* Securities Exchange Act Release No. 69132 (March 13, 2013), 78 FR 16898, 16902–16903 (March 19, 2013) (SR–NASDAQ–2013–041) (justifying allowing affiliates to aggregate their volume to receive rebates because all Participants on the exchange have the ability to aggregate if certain Participants chose to operate under separate entities).

[79] 15 U.S.C. 78s(b)(3)(A).

[80] 17 CFR 240.19b–4(f)(2).

[81] 15 U.S.C. 78s(b)(2)(B).

[82] 17 CFR 200.30–3(a)(12).

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2015–0001].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than March 24, 2015. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Waiver of Right to Appear—Disability Hearing—20 CFR 404.913–404.914, 404.916(b)(5), 416.1413–416.1414, 416.1416(b)(5)—0960–0534.* Claimants for Social Security disability payments or their representatives can use Form SSA–773–U4 to officially waive their right to appear at a disability hearing. The disability hearing officer uses the signed form as a basis for not holding a hearing, and for preparing a written decision on the claimant's request for disability payments based solely on the evidence of record. The respondents are claimants for disability payments under Title II and Title XVI of the Social Security Act, or their representatives, who wish to waive their right to appear at a disability hearing.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–773–U4	200	1	3	10

2. *Promoting Readiness of Minors in SSI (PROMISE) Evaluation—0960–0799.*

Background.

The Promoting Readiness of Minors in SSI (PROMISE) demonstration pursues positive outcomes for children with disabilities who receive Supplemental Security Income (SSI) and their families by reducing dependency on SSI. The Department of Education (ED) awarded six cooperative agreements to states to improve the provision and coordination of services and support for children with disabilities who receive SSI and their families to achieve improved education and employment outcomes. ED awarded PROMISE funds to five single-state projects, and to one six-state consortium.[1] With support from ED, the Department of Labor (DOL), and the Department of Health and Human Services (HHS), SSA is evaluating the six PROMISE projects. SSA contracted with Mathematica Policy Research to conduct the evaluation.

Under PROMISE, targeted outcomes for youth include an enhanced sense of self-determination; achievement of secondary and post-secondary educational credentials; an attainment of early work experiences culminating with competitive employment in an integrated setting; and long-term reduction in reliance on SSI. Outcomes of interest for families include heightened expectations for and support of the long-term self-sufficiency of their youth; parent or guardian attainment of education and training credentials; and increases in earnings and total income. To achieve these outcomes, we expect the PROMISE projects to make better use of existing resources by improving service coordination among multiple state and local agencies and programs.

ED, SSA, DOL, and HHS intend the PROMISE projects to address key limitations in the existing service system for youth with disabilities. By intervening early in the lives of these young people, at ages 14–16, the projects engage the youth and their families well before critical decisions regarding the age 18 redetermination are upon them. We expect the required partnerships among the various state and Federal agencies that serve youth with disabilities to result in improved integration of services and fewer dropped handoffs as youth move from one agency to another. By requiring the programs to engage and serve families and provide youth with paid work experiences, the initiative is mandating the adoption of critical best practices in promoting the independence of youth with disabilities.

Project Description

SSA is requesting clearance for the collection of data needed to implement and evaluate PROMISE. The evaluation provides empirical evidence on the impact of the intervention for youth and their families in several critical areas, including: (1) Improved educational attainment; (2) increased employment skills, experience, and earnings; and (3) long-term reduction in use of public benefits. We base the PROMISE evaluation on a rigorous design that entails the random assignment of approximately 2,000 youth in each of the six projects to treatment or control groups (12,000 total). The PROMISE projects provide enhanced services for youth in the treatment groups; whereas youth in the control groups are eligible only for those services already available in their communities independent of the interventions.

The evaluation assesses the effect of PROMISE services on educational attainment, employment, earnings, and reduced receipt of disability payments. The three components of this evaluation include:

- The process analysis, which documents program models, assesses the relationships among the partner organizations, documents whether the grantees implemented the programs as planned, identifies features of the programs that may account for their impacts on youth and families, and identifies lessons for future programs with similar objectives.
- The impact analysis, which determines whether youth and families in the treatment groups receive more services than their counterparts in the control groups. It also determines whether treatment group members have better results than control group members with respect to the targeted outcomes noted above.
- The cost-benefit analysis, which assesses whether the benefits of PROMISE, including increases in employment and reductions in benefit receipt, are large enough to justify its costs. We conduct this assessment from a range of perspectives, including those of the participants, state and Federal governments, SSA, and society as a whole.

SSA planned several data collection efforts for the evaluation. These include: (1) Follow-up interviews with youth and their parent or guardian 18 months and 5 years after enrollment; (2) phone and in-person interviews with local program administrators, program supervisors, and service delivery staff at

[1] The six-state consortium project goes by the name Achieving Success by Promoting Readiness for Education and Employment (ASPIRE) rather than by PROMISE.

two points in time over the course of the demonstration; (3) two rounds of focus groups with participating youth in the treatment group; (4) two rounds of focus groups with parents or guardians of participating youth; and (5) collection of administrative data.

At this time, SSA requests clearance for the 18-month survey interviews. SSA will request clearance for the 5-year survey interviews in a future submission. The respondents are the youth participants in the PROMISE program, and the parents or guardians of the youth participants.

Type of Request: Revision of an OMB-approved information collection.

TIME BURDEN ON RESPONDENTS

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
2014: Interviews and Focus Group Discussions				
Staff Interviews with Administrators or Directors	75	1	66	83
Staff Interviews with PROMISE Project Staff	145	1	66	160
Youth Focus Groups—Non-participants	320	1	5	27
Youth Focus Groups—Participants	80	1	100	133
Parents or Guardian Focus Groups—Non-participants	320	1	5	27
Parents or Guardian Focus Groups—Participants	80	1	100	133
Totals	1,020			563
2015: 18 Month Survey Interviews				
18 Month Survey Interviews—Parent	850	1	41	581
18 Month Survey Interviews—Youth	850	1	30	425
Totals	1,700			1,006
2016: Interviews and Focus Group Discussions				
Staff Interviews with Administrators or Directors	75	1	66	83
Staff Interviews with PROMISE Project Staff	145	1	66	160
Youth Focus Groups—Non-participants	320	1	5	27
Youth Focus Groups—Participants	80	1	100	133
Parents or Guardian Focus Groups—Non-participants	320	1	5	27
Parents or Guardian Focus Groups—Participants	80	1	100	133
18 Month Survey Interviews—Parent	5,100	1	41	3,485
18 Month Survey Interviews—Youth	5,100	1	30	2,550
Totals	11,220			6,598
2017: 18 Month Survey Interviews				
18 Month Survey Interviews—Parent	4,250	1	41	2,904
18 Month Survey Interviews—Youth	4,250	1	30	2,125
Totals	8,500			5,029
Grand Total				
Grand Total	22,440			13,196

COST BURDEN FOR RESPONDENTS

Respondent type	Number of respondents	Frequency of response	Average burden per response (minutes)	Median hourly wage rate (dollars)	Total respondent cost (dollars)
2014: Annual Cost to Respondents					
Parent or Guardian Focus Group—Non-Participants	320	1	5	$7.38	$196.01
Parent or Guardian Focus Group—Participants	80	1	100	7.38	984.20
Total	400				1,180.21
2016: Annual Cost to Respondents					
Parent or Guardian Focus Group—Non-Participants	320	1	5	7.38	196.01
Parent or Guardian Focus Group—Participants	80	1	100	7.38	984.20

COST BURDEN FOR RESPONDENTS—Continued

Respondent type	Number of respondents	Frequency of response	Average burden per response (minutes)	Median hourly wage rate (dollars)	Total respondent cost (dollars)
Total	400				1,180.21
Grand Total Cost Estimate					
Grand Total	800				2,360.42

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than February 23, 2015. Individuals can obtain copies of the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov.*

1. *Modified Benefit Formula Questionnaire—Foreign Pension—0960–0561.* SSA uses Form SSA–308 to determine exactly how much (if any) of a foreign pension may be used to reduce the amount of Title II Social Security retirement or disability benefits under the modified benefit formula. The respondents are applicants for Title II Social Security retirement or disability benefits who have foreign pensions.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–308	13,452	1	10	2,242
Phone Interview	1,666	1	60	1,666
Totals	15,118			3,908

2. *Filing Claims Under the Federal Tort Claims Act—20 CFR 429.101–429.110—0960–0667.* The Federal Tort Claims Act is the legal mechanism for compensating persons injured by negligent or wrongful acts that occur during the performance of official duties by Federal employees. In accordance with the law, SSA accepts monetary claims filed under the Federal Tort Claims Act for damages against the United States, loss of property, personal injury, or death resulting from an SSA employee's wrongful act or omission. The regulation sections cleared under this information collection request require claimants to provide information SSA can use to investigate and determine whether to make an award, compromise, or settlement under the Federal Tort Claims Act. The respondents are individuals or entities making a claim under the Federal Tort Claims Act.

Type of Request: Extension of an OMB-approved information collection.

CFR section	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
429.102; 429.103 [1]	1			1
429.104(a)	11	1	5	1
429.104(b)	43	1	5	4
429.104(c)	1	1	5	0
429.106(b)	6	1	10	1
Totals	62			7

[1] The 1 hour represents a placeholder burden. We are not reporting a burden for this collection because respondents complete OMB-approved Form SF–95.

Dated: January 20, 2015.

Faye Lipsky,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2015–01129 Filed 1–22–15; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 9010]

60-Day Notice of Proposed Information Collection: Evacuee Manifest and Promissory Note

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public

comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to March 24, 2015.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2015–0003'' in the search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: RiversDA@state.gov.*
- *Mail:* (paper, disk, or CD–ROM submissions): U.S. Department of State, CA/OCS/PMO, SA–17, 10th Floor, Washington, DC 20036.
- *Fax:* 202–736–9111.
- *Hand Delivery or Courier:* U.S. Department of State, CA/OCS/PMO, 600 19th St. NW., 10th Floor, Washington, DC 20036.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Derek Rivers, Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS/L), U.S. Department of State, SA–17, 10th Floor, Washington, DC 20036 or at *RiversDA@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Evacuee Manifest and Promissory Note.
- *OMB Control Number:* 1405–0211.
- *Type of Request:* Extend.
- *Originating Office:* Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS).
- *Form Number:* DS–5528.
- *Respondents:* U.S. citizens, U.S. non-citizen nationals, lawful permanent residents, and third country nationals applying for emergency loan assistance during an evacuation.
- *Estimated Number of Respondents:* 525.
- *Estimated Number of Responses:* 525.
- *Average Hours Per Response:* 20 minutes.
- *Total Estimated Burden:* 175 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain Benefits.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The purpose of the DS–5528 is to document the evacuation of persons from abroad when their lives are endangered by war, civil unrest, or natural disaster, document issuance of a crisis evacuation loan, obtain a Privacy Act waiver to share information about the welfare of a U.S. citizen or lawful permanent resident consistent with the Privacy Act of 1974, and to facilitate debt collection.

Methodology: An electronic version of the Evacuee Manifest and Promissory Note was created, allowing applicants to type their information into the form, print it, and present it to a consular officer at the evacuation point. Continued software development will provide the capability to electronically submit loan applications for adjudication. The final-stage of software development will not only allow the applicant to enter his/her information and submit the form, the information will also be made available for all stages of financial processing including the Department of State's debt collection process. Due to the potential for serious conditions during crisis events that often affect electronic and internet infrastructure systems, the electronic form will not replace the paper form. Rather, the paper form will still be maintained and used in the event that applicants are unable to submit forms electronically.

Dated: January 5, 2015.

Michelle Bernier-Toth,

Managing Director, Bureau of Consular Affairs, Overseas Citizen Services, Department of State.

[FR Doc. 2015–01191 Filed 1–22–15; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Eighth Meeting: RTCA Tactical Operations Committee (TOC)

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Eighth Meeting Notice of RTCA Tactical Operations Committee.

SUMMARY: The FAA is issuing this notice to advise the public of the seventh meeting of the RTCA Tactical Operations Committee.

DATES: The meeting will be held February 5th from 11:00 a.m.–4:00 p.m.

ADDRESSES: The meetings will be held at RTCA Headquarters, RTCA, Inc., 1150 18th Street NW., Suite 910, Washington DC 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Trin Mitra, TOC Secretary, *tmitra@rtca.org,* 202–330–0655.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the RTCA Tactical Operations Committee. The agenda will include the following:

February 5th

- Opening of Meeting/Introduction of TOC Members—Co Chairs Jim Bowman and Dale Wright
- Official Statement of Designated Federal Official—Elizabeth Ray
- Approval of November 20, 2014 Meeting Summary
- FAA Report
- Recommendation from NOTAM Task Group: Feedback on Phase 1 Implementation of NOTAM Search
- Briefing from Fedex on Safety Learnings in NOTAMs
- Discuss Potential Ideas for Future TOC Effort: Remote Towers, UAS, TBFM, NSAAP
- Introduce New Task: Exclusion Zones and GPS Adjacent Band Compatibility Study
- FAA Response to VOR MON Recommendation on Task #4
- Review Status of Ongoing Tasks: VOR MON, Eastern Regional Task Group, Class B, Airport Construction
- Anticipated Issues for TOC consideration and action at the next meeting
- Other business
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 20, 2015.

Mohannad Dawoud,

Management Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–01143 Filed 1–20–15; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on the Sale of Santa Isabel Airport, Santa Isabel, Puerto Rico.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is issuing this notice to advise the public of the proposed sale of Santa Isabel Airport (PR27), Santa Isabel, Puerto Rico.

DATES: Comments must be received on or before February 23, 2015.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: Parks Preston, Program Manager, 1701 Columbia Ave., Campus Bldg., Suite 2–260, College Park, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to the following address: Ingrid C. Colberg-Rodriguez, Esp., Executive Director, Puerto Rico Ports Authority, P.O. Box 362829, San Juan, PR 00936–2829.

FOR FURTHER INFORMATION CONTACT: Parks Preston, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Campus Bldg., Suite 2–260, College Park, GA 30337, (404) 305–7149. The request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: On March 9, 1949, the U.S. government, through the Federal Farm Mortgage Corporation, conveyed the Santa Isabel Auxiliary Air Field to the Puerto Rico Transportation Authority through a deed of sale. The Civil Aviation Authority (CAA) issued a conditional release of nearly all Federal obligations, reservations and restrictions contained in the 1949 deed on June 28, 1957. This release retained the U.S. government's rights and interests with respect to any uranium, thorium, and fissionable materials and was subject to specific terms and conditions. On November 26, 2008, the Puerto Rico Ports Authority (PRPA) notified FAA of its plans to close Santa Isabel Airport per the terms and conditions contained in the 1957 release. PRPA plans to sell Santa Isabel Airport and all proceeds derived from any sale, lease or rental of any of the property included in the release will be used exclusively for the improvement or development of a public airport in accordance with the June 28, 1957 release letter. In addition to this notice, the PRPA intends to utilize electronic media to advertise the sale of the property.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Puerto Rico Ports Authority offices.

Issued in College Park, Georgia, on January 14, 2015.

Larry F. Clark,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 2015–01150 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Release Airport Property for Non-Aeronautical Use; Plymouth Municipal Airport, Plymouth, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments.

SUMMARY: The Federal Aviation Administration is considering a proposal to release of two parcels of approximately 27.3 acres of airport property for non-aeronautical use at the Plymouth Municipal Airport, Plymouth, MA. The released parcels would serve as part of the mitigation for an Army Corps of Engineers conservation project. The airport acreage to be released is currently used as a buffer zone and is not needed for current and future airport development. In exchange, the Airport would receive 41.5 acres of land that would be used for conservation. In accordance with section 47107(h) of Title 49 of the United States Code, the FAA invites public comment on this proposal.

DATES: Comments must be received on or before February 23, 2015.

ADDRESSES: You may send comments using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* and follow the instructions on providing comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W 12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.*

FOR FURTHER INFORMATION CONTACT: Thomas Vick, Compliance and Land Use Specialist, New England Region Airports Division, 12 New England Executive Park, Burlington, MA 01803. Telephone: 781–238–7618; Fax 781–238–7608.

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 106–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** not less than 30 days before the Secretary may waive any condition imposed on a federally obligated airport by grant agreements. The FAA invites public comment on the request, under the provisions of AIR 21, to release land at the Plymouth Municipal Airport from its federal obligations.

The Plymouth Municipal has requested to release approximately 27.3 acres of airport land from federal obligations and to exchange that land with approximately 41.5 acres of land, which includes 13.39 acres improved by a 3.87 acre producing cranberry bog system currently owned by the Piney Wood Cranberry Co., Inc. The 27.3 acres to be released was purchased by the Airport as part of the land acquisition site for future airport development located in the Town of Plymouth, MA. That parcel are made up of portions of parcels 17 and 18A as shown on the Exhibit A of the Plymouth Municipal Airport date March 2011. Parcel 17 is recorded in the Plymouth Registry of Deeds, Book 4907, pages 283–2. Parcel 18A is recorded in the Plymouth Registry of Deeds, Book 5607, page 395.

The Airport no longer needs these parcels for future aeronautical use. In exchange, the airport will acquire 41.5 acres of land for conservation. The parcel to be acquired is identified as

Town of Plymouth, Plymouth County Registry of Deeds, Book 3099, page 406.

The Airport completed a Real Estate Appraisal Report and Review Appraisal for the parcels. The appraisal was conducted in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisal concludes that the Plymouth Municipal Airport will receive fair market value for the land that it is releasing in this proposed land release and property exchange. In accordance with section 47107(h) of Title 49 of the United States Code, the FAA invites public comment on this proposal.

Issued in Burlington, Massachusetts, December 15, 2014.

Bryon H. Rakoff,

Deputy Manager, Airports Division.

[FR Doc. 2015–01213 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on the Portageville Bridge Project, Livingston and Wyoming Counties, New York

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

SUMMARY: This notice announces actions taken by FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(1)(1). The actions relate to the Portageville Bridge Project. Those actions grant approvals for the project.

DATES: By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(1)(1). A claim seeking judicial review ofthe Federal agency actions on the railway bridge project will be barred unless the claim is filed on or before June 22, 2015. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Jonathan D. McDade, Division Administrator, Federal Highway Administration, Leo W. O'Brien Federal Building, Albany, New York 12207, Telephone (518) 431–4127.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA and other Federal agencies have taken final agency actions by issuing approvals for the following railway bridge project in the State of New York: Portageville Bridge Project, Towns of Portage and Genesee Falls, Livingston and Wyoming Counties, New York. The purpose of the Project is to address the existing deficiencies at the Portageville Bridge on the Southern Tier rail freight route across the Genesee River by providing a modern rail crossing of the Genesee River at its current location that is capable of carrying current industry standard freight rail loads, to the greatest degree possible meeting Federal Railroad Administration (FRA) Class 4 speeds, while reducing ongoing maintenance efforts and costs. The Project is needed in order for Norfolk Southern, the Project Sponsor, to continue safe, reliable, and efficient rail operations on the Southern Tier route. These operations are critical to the economic viability and growth of the Southern Tier and other affected areas of New York.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the FHWA Final Environmental Impact Statement (FEIS) for the project, approved by FHWA in the Record ofDecision (ROD) issued on December 29, 2014, and in other documents in the FHWA administrative record. The FEIS, ROD, and other documents in the FHWA administrative record file are available by contacting the FHWA at the addresses provided above. The FEIS and ROD can be viewed and downloaded from the project Web site at *https://www.dot.ny.gov/portagevillebridge.* This notice applies to all Federal agency decisions as of the issuance date ofthis notice and all laws under which such actions were taken, including but not limited to:

1. General Environmental Statues: National Environmental Policy Act (42 U.S.C. 4321–4355); Economic, social, and environmental effects (23 U.S.C. 109(h)); Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Chapter 61 and 49 CFR 24); Public Hearings (23 U.S.C. 128).

2. Air: Clean Air Act (42 U.S.C. 7506(c) and 40 CFR part 93); Safe, Efficient Use, and Preservation ofthe Navigable Airspace (14 CFR part 77); Congestion Mitigation and Air Quality Improvement Program (23 U.S.C. 149).

3. Noise: Standards (23 U.S.C. 109(i)).

4. Land: Section 4(f) ofthe Department of Transportation Act of 1966 (49 U.S.C. 303 and 23 CFR 774); Farmland Protection Policy Act (7 U.S.C. 4201—4209); Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4–4601–11)

5. Wildlife: Endangered Species Act (16 U.S.C. 1531–1544 and 50 CFR 402); Fish and Wildlife Coordination Act (16 U.S.C. 661–667(d)); Bald and Golden Eagle Protection Act (16 U.S.C. 668–668(c)).

6. Historic and Cultural Resources: Section 106 ofthe National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 and 36 CFR part 800).

7. Social and Economic: Interstate Commerce Commission Termination Act of 1995 (49 U.S.C. 10501), the Federal Railway Safety Act of 1970 (49 U.S.C. 20101 *et seq.*).

8. Wetlands and Water Resources: Safe Drinking Water Act (42 U.S.C. 300(f)-3000)(6)); Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977 & 1987 (33 U.S.C. 1251–1387); National Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271–1287) and Genesee River Protection Act of 1989 (16 U.S.C. 1276(a)); Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 401).

9. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601–9675).

10. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 12898 Environmental Justice; E.O. 13112 Invasive Species; E.O. 11988 of 1977 Floodplains.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(1)(1)

Jonathan D. McDade,

Division Administrator, Albany NY.

[FR Doc. 2015–00986 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0177]

Crash Weighting Analysis

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; request for public comment.

SUMMARY: FMCSA announces a study to inform decision making about the feasibility of using a motor carrier's role in crashes as an indicator of future crash risk in response to stakeholder interest

and as part of the Agency's commitment to continuous improvement. This study assesses (1) whether Police Accident Reports (PARs) provide sufficient, consistent, and reliable information to support crash weighting determinations; (2) whether a crash weighting determination process would offer an even stronger predictor of crash risk than overall crash involvement and how crash weighting would be implemented in the Agency's Safety Measurement System (SMS); and (3) how FMCSA might manage a process for making crash weighting determinations, including the acceptance of public input. This notice advises the public of the availability of the study report for review and comment, along with a request for feedback on what steps the Agency should take regarding crash and PAR data quality.

DATES: Comments must be received on or before February 23, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2014–0177 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: For information concerning this study, contact Ms. Dee Williams, Chief, Compliance Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, Telephone 202–366–1812 or by email: *dee.williams@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2014–0177), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number, ''FMCSA–2014–0177'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number, ''FMCSA–2014–0177'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Background

The FMCSA is dedicated to reducing crashes, injuries, and fatalities involving large trucks and buses. The Compliance, Safety, Accountability (CSA) program is FMCSA's enforcement model that allows the Agency and State Partners to address motor carrier safety problems before crashes occur. The foundation of CSA is the SMS, which quantifies the on-road safety performance of motor carriers to prioritize enforcement resources.

The SMS uses recordable crash records involving commercial motor vehicles (CMVs) that are submitted by the States through the Agency's Motor Carrier Management Information System (MCMIS) to assess motor carriers' crash risk and prioritize them for safety interventions using the SMS Crash Indicator. To define recordable crash, the Agency relies on the definition of ''accident'' found in 49 CFR 390.5, which means (1) except as provided in paragraph (2) of the definition, an occurrence involving a CMV operating on a highway in interstate or intrastate commerce that results in: (i) A fatality; (ii) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (iii) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle. (2) The term accident does not include: (i) An occurrence involving only boarding and alighting from a stationary motor vehicle; or (ii) an occurrence involving only the loading or unloading of cargo.

A CMV is also defined at 49 CFR 390.5, as any self-propelled or towed

motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle: (1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or (2) is designed or used to transport more than eight passengers (including the driver) for compensation; or (3) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or (4) is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.

Because the crash data reported to FMCSA by the States does not specify a motor carrier's role in the crash, the Crash Indicator uses all of a motor carrier's recordable crashes, and is not available publicly. The Crash Indicator does weight crashes based on crash severity, however, with more weight given to fatality and injury crashes than to those that meet the definition of an accident only because one or more vehicles was towed from the scene.

Research on this issue conducted by FMCSA, as well as independent organizations, has demonstrated that crash involvement, regardless of role in the crash, is a strong indicator of future crash risk. In fact, the Crash Indicator is one of the strongest predictors of crashes within the SMS. FMCSA's recently completed SMS Effectiveness Test (ET) shows that motor carriers above the Intervention Threshold in the Crash Indicator have a future crash rate that is 85 percent higher than the national average (*https://csa.fmcsa.dot.gov/Documents/CSMS_Effectiveness_Test_Final_Report.pdf).* This document and related reports are available in the docket of this notice.

Since FMCSA has implemented the SMS, some stakeholders have expressed concern that the Crash Indicator may not identify the highest risk motor carriers for intervention because it looks at all crashes without regard to the role of the carrier in the crash. In response to stakeholder interest and as part of the Agency's commitment to continuous improvement, FMCSA has completed a study on the feasibility of using a motor carrier's role in crashes as an indicator of future crash risk. The analysis focused only on the three broad questions below addressing the procedural issues surrounding a crash weighting program and the feasibility of implementing such a program; it did not focus on any other implications of the program. The three analysis questions are separate analyses designed to inform Agency decisions.

- Do PARs provide sufficient, consistent, and reliable information to support crash weighting determinations?
- Would a crash weighting determination process offer an even stronger predictor of crash risk than overall crash involvement, and how would crash weighting be implemented in the SMS?
- Depending upon the analysis results for the questions above, how might FMCSA manage the process for making crash weighting determinations, including public input to the process?

The Agency's research plan was posted on the Agency's Web site at *http://csa.fmcsa.dot.gov/documents/CrashWeightingResearchPlan_7-2012.pdf* on July 23, 2012. The resulting report is titled ''Crash Weighting Analysis'' and is in the docket associated with this notice. The draft research was peer reviewed, and the peer review recommendations are also in the docket.

III. Summary of Analysis

The discussion below summarizes the results of the three questions addressed in this analysis. Each question is addressed independently. The FMCSA seeks comments on the analyses' approaches and results.

Because FMCSA does not receive PARs from the States, the Agency created a database for analysis using 10,892 PARs obtained from two national datasets: The National Highway Traffic Safety Administration (NHTSA) Fatality Analysis Reporting System (FARS) and the National Motor Vehicle Crash Causation Survey (NMVCCS).

Depending upon State procedures, most PARs do not indicate the reason for a crash; therefore, the FMCSA employed a review process based on the process developed for FMCSA's Large Truck Crash Causation Study (LTCCS), particularly the methodology for assigning the ''critical event'' and the ''critical reason'' for the critical event. This methodology focuses on pre-crash events, such as vehicle and driver actions/movements, driver condition, and the environment at the crash scene, to identify the circumstances leading to the crash.[1] The critical event is the event that immediately led to the crash and that put the vehicle or vehicles on a course that made the crash unavoidable. The critical reason is the immediate reason for the critical event or the failure leading to the critical event, for example, if a CMV driver drives too fast for the roadway type.

The FMCSA reviewed the PARs and determined the critical event and critical reason to identify a motor carrier's role in a crash and assign a crash weighting for analysis purposes. In order to derive the most robust analysis of each study question, the Agency used several crash data sources, including PARs, the NMVCCS, and the MCMIS.

Question 1: Do PARs provide sufficient, consistent, and reliable information to support crash weighting determinations?

One of the key questions for this study is whether FMCSA could make reliable crash weighting determinations based solely on PARs, since the PAR is often perceived as the most common and timely record of a crash. This analysis (1) reviewed PAR sufficiency for determining a motor carrier's role in a crash; (2) compared a sample of PARs with other data sets to assess the reliability of the information on the PARs; and (3) assessed the feasibility of identifying (coding) the motor carrier's role for particular types of crash events without reviewing the PAR.

In this study, FMCSA reviewed and coded three years of crash data, a total of 10,892 PARs from the FARS and NMVCCS, to identify the critical reason for the crash. Ninety-one percent of the PARs met the criteria to be reviewed for a critical reason determination (at least one vehicle involved in the crash was a CMV, the CMV was regulated by FMCSA, and the crash met the criteria for a recordable crash). Nine percent could not be reviewed because it could not be determined from the PAR that all of these criteria were met. Of the 91 percent of the PARs that could be reviewed, 3 percent could not be coded for a critical reason due to incomplete, inconsistent, or insufficient information.

The PARs were then reviewed to determine how reliably (or accurately) they depicted the circumstances of the crash. Specific fields on the PARs were compared to the information in related fields in the FARS, which provides more robust information than the PAR alone. The FMCSA did not attempt to infer these data fields from the narrative sections of the PAR.

The following table provides an overview of the match rate between PARs and FARS. The Agency was unable, in this type of analysis, to establish which record, the PAR or

[1] For details on the LTCCS methodology, go to *http://www.ai.fmcsa.dot.gov/ltccs/default.asp?page=method.*

FARS, was more accurate, but simply identified the fact that the two data sources were not in agreement.

Data field	PAR/FARS match	PAR/FARS non-match	Missing PAR data
Driver Contributing Factors	12.6%	5.3%	82.0%
First Harmful Event	46.9	5.6	47.5
Traffic-Way Flow	52.4	14.9	32.8
Weather Conditions	95.7	3.2	1.1
Roadway Surface Conditions	96.7	2.3	1.0

The FMCSA also compared the critical reasons assigned for this study with those assigned in matching records from the NMVCCS, which employs a similar critical reason determination process. The analysis found that the majority of the critical reason determinations, about 90 percent, matched between these two data sources.

The Agency also assessed the practicality of coding crashes for two types of crash events using information available in the MCMIS as an approach to crash weighting that would not require reviewing an actual PAR: (1) Single-vehicle crashes deemed to be ''attributable'' to the motor carrier; and (2) both single- and multiple-vehicle crashes with associated post-crash inspection records indicating a pre-crash out-of-service (OOS) condition on the CMV involved. Single-vehicle attributable crashes are those for which the MCMIS event code description did not indicate a collision with a pedestrian; a motor vehicle in transport; an animal; work zone maintenance equipment; or other/unknown movable object or ''other.'' It was hypothesized that the critical reason for these two types of crashes would be assigned to the CMV if the PARs were reviewed. Analysis results suggest that the coding of single-vehicle crashes without a PAR review is feasible, but is dependent upon accurate data as to the number of vehicles involved. For crashes with a pre-crash OOS condition, PAR reviewers did not assign the critical reason to the CMV in a majority of cases as they did not consider the post-crash inspection results, but the PAR alone.

Question 2: Would a crash weighting determination process offer an even stronger predictor of crash risk than overall crash involvement, and how would crash weighting be implemented in the SMS?

This portion of the crash weighting analysis assumed PAR sufficiency and reliability and looked at whether a crash weighting methodology in the SMS Crash Indicator BASIC would provide a sharper view of the highest risk motor carriers by identifying motor carriers with higher future crash rates. Crash weights were derived based on (1) the critical reason assignments for the 10,892 PARs that were reviewed; and (2) on 671 single-vehicle attributable crashes identified in the MCMIS.

The Agency employed various statistical and analytical approaches to assess crash weighting benefits. The analysis used crash data from 2009–2010 to define Crash Indicator percentiles, then tracked the future (January 2011 to June 2012) crash rate of motor carriers above the Intervention Threshold.

The analysis applied two approaches for modifying crash weights and analyzed the effect of each on the crash-predictive strength of the current Crash Indicator. The first applied higher severity weights for crashes where the critical reason was assigned to the CMV and for single-vehicle attributable crashes and applied lower weights for crashes that were reviewed but not assigned to the CMV. The second approach simply removed crashes that were reviewed but not assigned to the CMV. Both of these approaches were applied to the same two sets of crashes: All crashes and fatal crashes only.

Results showed that modifying the Crash Indicator by changing the crash weights based on a motor carrier's role in a crash does not appear to improve its ability to predict future crash rates when all crashes are considered. Modifying the Crash Indicator to include crash weighting improves its ability to predict future crash rates when *only fatal* crashes are considered. When the crash weighting methodology was applied, the carriers that were identified for intervention had future crash rates that are 1.8 percent to 5.0 percent higher, when removing crashes not assigned to the CMV during the PAR review. Fatal crashes are, however, less than 3 percent of all crashes in the MCMIS.

Question 3: How might FMCSA manage the process for making crash weighting determinations, including public input to the process?

The objective of this part of the analysis was to identify how a crash weighting process might be structured and, based on this process, estimate the resources required for both start-up and ongoing implementation.

Implementing a crash weighting effort on a national scale requires a method for uniformly acquiring the final PARs for all or a subset of crashes; a process and system for uniform analysis; and a method for receiving and analyzing public input.

It must be noted that FMCSA does not currently receive PARs from the States and that they may be difficult to obtain, due to the requirements for secure data collection and storage, which creates a significant, albeit unknown, cost to the Agency. The annual costs for reviewing and coding PARs, including the acceptance of public input, will vary depending upon the number of PARs reviewed, the number of appeals, and the crash weighting determination process established by the Agency. This analysis estimates potential costs of between $3.9 million and $11.2 million annually.

The analysis also provided some insight into the amount of time it would take to make these determinations. The data provided some indication that the timeframe for the entire crash weighting determination process, from the submission of the crash report through the determination process, could be so significant as to make the value of the determination questionable for the purposes of use in the SMS, given the 24-month analysis period used by the SMS.

IV. Request for Comments

The Agency completed the study to inform decision making concerning the feasibility of using a motor carrier's role in crashes as an indicator of future crash risk. Based on the information that is provided, what steps should the Agency

take regarding crash and PAR data quality? Are there other data, research, or related materials FMCSA should take into consideration?

Dated: January 16, 2015.

T.F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2015–01144 Filed 1–21–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7363; FMCSA–2002–12432; FMCSA–2002–12844; FMCSA–2002–19477; FMCSA–2006–26066; FMCSA–2008–0266; FMCSA–2008–0340; FMCSA–2009–0321; FMCSA–2010–0114; FMCSA–2010–0187; FMCSA–2010–0354; FMCSA–2010–0385; FMCSA–2012–0040; FMCSA–2012–0337; FMCSA–2012–0338; FMCSA–2012–0339]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 27 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective February 25, 2015. Comments must be received on or before February 23, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2000–7363; FMCSA–2002–12432; FMCSA–2002–12844; FMCSA–2002–19477; FMCSA–2006–26066; FMCSA–2008–0266; FMCSA–2008–0340; FMCSA–2009–0321; FMCSA–2010–0114; FMCSA–2010–0187; FMCSA–2010–0354; FMCSA–2010–0385; FMCSA–2012–0040; FMCSA–2012–0337; FMCSA–2012–0338; FMCSA–2012–0339], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 27 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 27 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Sava A. Andjelich (IN)
William Audinwood (NY)
Jose C. Azuara (TX)
Kenneth L. Bowers, Jr. (MN)
Keith E. Breeding (IN)
Lester W. Carter (CA)
Lisa M. Durey (IL)
Matthew T. Eggers (IA)
Dennis E. Fisher (NY)
Andrew G. Fornsel (NY)
Jerry Hall (KY)
Thomas D. Laws (IN)
Harry J. McSuley, Jr. (PA)
Dennis R. O'Dell, Jr. (OK)
Jerry W. Parker (OH)
Dennis W. Pevey (GA)
Gary W. Phelps (PA)
Charles D. Reddick (GA)
Myriam Rodriguez (CA)
Bobby L. Rupe (TX)
Jules M. Sancho, Jr. (LA)
Frank Santak (DE)
Henry A. Shelton (AL)
Gary Wanek (NE)
Keith Washington (IL)
Kenneth J. Weaver (WY)
Cameron R. Whitford (NY)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption

will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 27 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 45821; 65 FR 77066; 67 FR 54525; 67 FR 68719; 68 FR 1654; 68 FR 2629; 68 FR 8794; 69 FR 64806; 69 FR 71098; 69 FR 71100; 70 FR 2705; 70 FR 8659; 71 FR 63380; 72 FR 1050; 72 FR 1054; 72 FR 1056; 72 FR 5489; 73 FR 51689; 73 FR 63047; 73 FR 75803; 73 FR 76439; 73 FR 78421; 74 FR 981; 74 FR 6207; 74 FR 6209; 75 FR 1835; 75 FR 34209; 75 FR 47883; 75 FR 47886; 75 FR 63255; 75 FR 72863; 75 FR 77942; 75 FR 79083; 75 FR 79084; 75 FR 9482; 76 FR 2190; 76 FR 4413; 76 FR 4414; 76 FR 5425; 76 FR 8809; 77 FR 23799; 77 FR 33558; 77 FR 70534; 77 FR 74731; 77 FR 75496; 78 FR 1919; 78 FR 9772; 78 FR 12811; 78 FR 12813; 78 FR 12817). Each of these 27 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2000–7363; FMCSA–2002–12432; FMCSA–2002–12844; FMCSA–2002–19477; FMCSA–2006–26066; FMCSA–2008–0266; FMCSA–2008–0340; FMCSA–2009–0321; FMCSA–2010–0114; FMCSA–2010–0187; FMCSA–2010–0354; FMCSA–2010–0385; FMCSA–2012–0040; FMCSA–2012–0337; FMCSA–2012–0338; FMCSA–2012–0339), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–2000–7363; FMCSA–2002–12432; FMCSA–2002–12844; FMCSA–2002–19477; FMCSA–2006–26066; FMCSA–2008–0266; FMCSA–2008–0340; FMCSA–2009–0321; FMCSA–2010–0114; FMCSA–2010–0187; FMCSA–2010–0354; FMCSA–2010–0385; FMCSA–2012–0040; FMCSA–2012–0337; FMCSA–2012–0338; FMCSA–2012–0339'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2000–7363; FMCSA–2002–12432; FMCSA–2002–12844; FMCSA–2002–19477; FMCSA–2006–26066; FMCSA–2008–0266; FMCSA–2008–0340; FMCSA–2009–0321; FMCSA–2010–0114; FMCSA–2010–0187; FMCSA–2010–0354; FMCSA–2010–0385; FMCSA–2012–0040; FMCSA–2012–0337; FMCSA–2012–0338; FMCSA–2012–0339'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: January 12, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–01199 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0312]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation.

ACTION: Notice of applications for exemptions request for comments.

SUMMARY: FMCSA announces receipt of applications from 69 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before February 23, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0312 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200

New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 69 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Bryan L. Anderson

Mr. Anderson, 30, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Anderson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Anderson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Travis K. Archer

Mr. Archer, 30, has had ITDM since 1996. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Archer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Archer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Maine.

Michael R. Batham

Mr. Batham, 31, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Batham understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Batham meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from California.

Victor M. Beltran-Araujo

Mr. Beltran Araujo, 43, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Beltran Araujo understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Beltran Araujo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Idaho.

Charles A. Best

Mr. Best, 31, has had ITDM since 2000. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Best understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Best meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Cassandra J. Braford

Ms. Braford, 31, has had ITDM since 2014. Her endocrinologist examined her in 2014 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired

cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Braford understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Braford meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2014 and certified that she does not have diabetic retinopathy. She holds an operator's license from Minnesota.

Mark E. Buchholz

Mr. Buchholz, 50, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Buchholz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Buchholz meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from South Dakota.

Richard E. Buthy

Mr. Buthy, 66, has had ITDM since 2006. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Buthy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Buthy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from New Jersey.

George E. Carle

Mr. Carle, 61, has had ITDM since 2004. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Carle understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Carle meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Colorado.

Jamey S. Carney

Mr. Carney, 45, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Carney understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Carney meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Bryan D. Carpenter

Mr. Carpenter, 56, has had ITDM since 2007. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Carpenter understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Carpenter meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Michael G. Cary

Mr. Cary, 57, has had ITDM since 1995. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cary understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cary meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Minnesota.

John G. Castilaw

Mr. Castilaw, 50, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Castilaw understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Castilaw meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Mississippi.

Dominick Cicala

Mr. Cicala, 54, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cicala understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cicala meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

Scott E. Cleveland

Mr. Cleveland, 43, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cleveland understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cleveland meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Kentucky.

Adam C. Cochran

Mr. Cochran, 25, has had ITDM since 1991. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cochran understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cochran meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Georgia.

Michael R. Cummings

Mr. Cummings, 56, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cummings understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cummings meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Virginia.

David L. Dalheim

Mr. Dalheim, 47, has had ITDM since 2004. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dalheim understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dalheim meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Brian Dick

Mr. Dick, 52, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dick understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dick meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Maryland.

Timothy B. Duelke

Mr. Duelke, 32, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Duelke understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Duelke meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Idaho.

Cory A. Duncan

Mr. Duncan, 40, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Duncan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Duncan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Oregon.

Terrence J. Dunne

Mr. Dunne, 49, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dunne understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dunne meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Jersey.

David L. Eklund

Mr. Eklund, 49, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Eklund understands diabetes management and monitoring, has stable control of his diabetes using

insulin, and is able to drive a CMV safely. Mr. Eklund meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Illinois.

Yoshitsugu Endo

Mr. Endo, 48, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Endo understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Endo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from New York.

Barry K. Foster

Mr. Foster, 50, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Foster understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Foster meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Texas.

Robert Fugate

Mr. Fugate, 58, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Fugate understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fugate meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

John A. Georg

Mr. Georg, 61, has had ITDM since 1986. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Georg understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Georg meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Francis J. Gernatt, Jr.

Mr. Gernatt, 68, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gernatt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gernatt meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Mark A. Haines

Mr. Haines, 50, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Haines understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Haines meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from West Virginia.

Ivan G. Hanford

Mr. Hanford, 48, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hanford understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hanford meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Oregon.

James L. Harman, III

Mr. Harman, 27, has had ITDM since 1989. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Harman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Harman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Virginia.

James R. Hoyle

Mr. Hoyle, 34, has had ITDM since 1997. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or

more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hoyle understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hoyle meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Texas.

George E. Huften

Mr. Huften, 55, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Huften understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Huften meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Connecticut.

John M. Ippolito

Mr. Ippolito, 45, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ippolito understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ippolito meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from New York.

Allan L. Jameson

Mr. Jameson, 74, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jameson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jameson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Nebraska.

Erik D. Kemmer

Mr. Kemmer, 35, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kemmer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kemmer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Mark L. Knobel, Sr.

Mr. Knobel, 55, has had ITDM since 1987. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Knobel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Knobel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from Maryland.

Joseph E. Knox, Sr.

Mr. Knox, 55, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Knox understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Knox meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Maryland.

Erik M. Lane

Mr. Lane, 33, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lane understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lane meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Jacob C. Liebl

Mr. Liebl, 23, has had ITDM since 1996. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Liebl understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Liebl meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from North Dakota.

Galen H. Martin

Mr. Martin, 69, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting

in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Martin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Martin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

James D. Martin

Mr. Martin, 55, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Martin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Martin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

John M. McCabe

Mr. McCabe, 43, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McCabe understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McCabe meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Kevin F. McGlade

Mr. McGlade, 54, has had ITDM since 2000. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McGlade understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McGlade meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Pennsylvania.

Brett J. Mellor

Mr. Mellor, 31, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mellor understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mellor meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Idaho.

Kenneth M. Merritt

Mr. Merritt, 50, has had ITDM since 2007. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Merritt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Merritt meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

Douglas D. Milligan

Mr. Milligan, 63, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Milligan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Milligan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Charles E. Morgan

Mr. Morgan, 62, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Morgan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Morgan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Louisiana.

Richard D. Neal

Mr. Neal, 59, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Neal understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Neal meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that

he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

Gary Anthony Alfred H. Nelson

Mr. Nelson, 51, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Nelson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Nelson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Florida.

Robert E. Perdue

Mr. Perdue, 63, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Perdue understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Perdue meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Christie M. Rose

Ms. Rose, 57, has had ITDM since 2013. Her endocrinologist examined her in 2014 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Rose understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Rose meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2014 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from Texas.

John E. Sautkulis

Mr. Sautkulis, 64, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sautkulis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sautkulis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Kevin D. Schlichting

Mr. Schlichting, 52, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Schlichting understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Schlichting meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Ronnie L. Schronce

Mr. Schronce, 47, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Schronce understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Schronce meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Richard A. Sharpe

Mr. Sharpe, 45, has had ITDM since 1993. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sharpe understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sharpe meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

William F. Smith

Mr. Smith, 58, has had ITDM since 2006. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Delaware.

Richard W. Stultz

Mr. Stultz, 61, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in

the last 5 years. His endocrinologist certifies that Mr. Stultz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stultz meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a chauffeur's license from Indiana.

Robin W. Swasey

Mr. Swasey, 52, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Swasey understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Swasey meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Utah.

Michelle P. Thibeault

Ms. Thibeault, 45, has had ITDM since 1992. Her endocrinologist examined her in 2014 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Thibeault understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Thibeault meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2014 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from Maine.

Michael L. Thrasher

Mr. Thrasher, 54, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thrasher understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thrasher meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Alabama.

Melinda K. Topel

Ms. Topel, 43, has had ITDM since 2010. Her endocrinologist examined her in 2014 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Topel understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Topel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2014 and certified that she has stable nonproliferative diabetic retinopathy. She holds a Class B CDL from Missouri.

Steven R. Vance

Mr. Vance, 46, has had ITDM since 1995. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Vance understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vance meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Texas.

William D. VanReese

Mr. VanReese, 38, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. VanReese understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. VanReese meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Minnesota.

Ellis J. Vest, Jr.

Mr. Vest, 52, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Vest understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vest meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from West Virgnia.

Herbert E. Wachtel

Mr. Wachtel, 46, has had ITDM since 2006. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wachtel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wachtel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Kendall G. Webster

Mr. Webster, 56, has had ITDM since 2000. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Webster understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Webster meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Oregon.

Christopher J. Wilson

Mr. Wilson, 40, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wilson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wilson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Mark P. Zimmerman

Mr. Zimmerman, 58, has had ITDM since 1999. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Zimmerman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Zimmerman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Nevada.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0312 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0312 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: January 12, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–01198 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; Honda

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the American Honda Motor Co., Inc.'s (Honda) petition for an exemption of the Honda CR–V vehicle line in accordance with 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard).

DATES: The exemption granted by this notice is effective beginning with the 2016 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, W43–439, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Ballard's phone number is (202) 366–5222. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated November 3, 2014, Honda requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the CR–V vehicle line beginning with MY 2016. The petition requested an exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Honda provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the CR–V vehicle line. Honda stated that its CR–V vehicle line will include a 2WD and a 4WD variation. Honda stated that its MY 2016 vehicle line will be installed with a passive, transponder-based, electronic-engine immobilizer antitheft device as standard equipment. Key components of the antitheft device will include a passive immobilizer, transponder ignition key, ''smart entry'' remote, Powertrain Control Module (PCM) and an Immobilizer Entry System (IMOES). Honda also stated that it will offer two types of ignition systems on its CR–V vehicle line. Specifically, Honda stated that the CR–V vehicle line will be offered with a ''keyed ignition'' system or a ''smart entry with push button start'' ignition system (''smart entry''). The ''keyed ignition'' system will be installed on its 2WD LX and 4WD LX models and the ''smart entry'' system will be installed on its 2WD EX/EXL/Touring models, and its 4WD EX/EXL/Touring models.

Honda's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

Honda stated that activation of its ''keyed ignition'' system occurs when the engine is switched to the ''OFF'' position. Honda further stated that its immobilization device is always active until the vehicle is started using a matching ignition key and will be activated again each time the engine is switched off. Deactivation of the immobilizer device occurs when a valid key and matching immobilization code is verified, allowing the engine to start and continue normal operations. Specifically, the immobilization system automatically checks for a matching code each time starting of the vehicle is attempted. A matching code must be validated by both the PCM and IMOES in order for the engine to start. Honda stated that if an incorrect key is used to try and start the vehicle, the PCM will prevent fueling of the engine but allow the vehicle to start and run a few seconds before it automatically switches off and the immobilizer telltale indicator begins to flash.

According to Honda, the ''smart entry'' system operates identically to its ''keyed ignition'' system except that ignition for its ''smart entry'' system vehicle is started by pushing the Engine Start/Stop button located to the right of the steering wheel on the vehicle dashboard. Honda stated that activation of its ''smart entry'' system occurs when the Start/Stop button is switched to the ''OFF'' position. Honda stated that the ''smart entry'' system operates once the remote is within operating range, the start/stop button is pushed and matching codes are verified by both the PCM and the IMOES, allowing the engine to start. Deactivation of the device occurs when a ''smart entry'' remote with matching codes is placed within the operating range and verified, allowing the engine to continue normal operations. Honda further states that if a ''smart entry'' remote without a matching code is placed inside the operating range and the Engine Start/Stop button is pushed, the PCM will prevent fueling and starting of the engine.

In order to attract attention to an unauthorized person attempting to enter its vehicles without the use of a transponder ignition key or a ''smart entry'' remote, Honda stated that it will install a vehicle security system as standard equipment on all CR–V vehicles to monitor attempts of unauthorized entry. Specifically, Honda stated that whenever an attempt is made to open one of its vehicle doors, hood or trunk without turning a key in the key cylinder, or using the key fob to disarm the vehicle, the vehicle's horn will sound and its lights will flash. The vehicle security system is activated when all of the doors are locked and the hood and trunk are closed and locked. Honda's vehicle security system is deactivated by using the key fob to unlock the vehicle doors or by unlocking the driver's door with the physical ignition key. Honda stated that deactivation of the vehicle's security system feature in its ''smart entry'' vehicles occurs when the ''smart entry'' remote is within operating range and the operator grabs either of the vehicle's front door handles.

Honda also stated that its CR–V vehicle line will be installed with other features that have been designed to prevent unauthorized entry of its vehicles without the use of a key (*i.e.,* specially-styled ignition key and key cylinders). Honda stated that its key cylinders will be designed to be resistant to tampering and its key fob remote will utilize rolling codes for the lock and unlock functions of its vehicles. Honda will also equip its vehicle line with a hood release, counterfeit resistant VIN plates and secondary VINs as standard equipment. Honda further stated that as an additional security measure, key duplication will be strictly controlled by its authorized dealers.

In addressing the specific content requirements of § 543.6, Honda provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Honda conducted tests based on its own specified standards. Honda provided a detailed list of the tests it used to validate the integrity, durability and reliability of the device and believes that it follows a rigorous development process to ensure that its antitheft device will be reliable and robust for the life of the vehicle and does not require the presence of a key fob battery to function. Additionally, Honda stated that its antitheft device has no moving parts (*i.e.,* the PCM, IMOES, ignition key, smart entry remote and the electrical components are found within its own housing units) which reduces the chance for deterioration or wear resulting from normal use.

In support of its belief that its antitheft device will be as or more effective in reducing and deterring vehicle theft than the parts-marking requirement, Honda referenced data showing several instances of the effectiveness of its proposed immobilizer device. Honda first installed an immobilizer device as standard equipment on its MY 2002 CR–V vehicles and referenced NHTSA's theft rate data showing a decrease in thefts since the installation of its immobilizer device. NHTSA's theft rates for MYs 2010, 2011, and 2012 are 0.3195, 0.2742 and 0.2953 respectively. Using an average of 3 MYs theft data (2010–2012), the theft rate for the CR–V vehicle line is well below the median at 0.2963.

Honda also referenced a September 2005 Highway Loss Data Institute report showing an overall reduction in theft rates for the Honda CR–V vehicles after introduction of the immobilizer device. Honda stated that the data show that there was an immediate decrease in MY/calendar year 2002 thefts with its immobilizer-installed vehicles but also showed sustained lower theft rates in following years.

Based on the evidence submitted by Honda on its antitheft device, the agency believes that the antitheft device for the CR–V vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of Part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that Honda has provided adequate reasons for its belief that the antitheft device for the Honda CR–V vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard. This conclusion is based on the information Honda provided about its device.

Based on the supporting evidence submitted by Honda on its device, the agency believes that the antitheft device for the CR–V vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR 541). The agency concludes that the device will provide the five types of performance listed in § 543.6(a)(3): Promoting activation; attract attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

For the foregoing reasons, the agency hereby grants in full Honda's petition for exemption for the CR–V vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with the 2016 model year vehicles. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Honda decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Honda wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Under authority delegated in 49 CFR part 1.95.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2015–01117 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0093; Notice 2]

Grote Industries, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Grote Industries, LLC (Grote), has determined that certain Grote bulk nylon air brake tubing manufactured during the period December 2013 to March 2014 does not fully comply with paragraph S11.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 106; *Brake Hoses.* Grote has filed an appropriate report dated June 13, 2014, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

ADDRESSES: For further information on this decision contact Luis Figueroa, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5298, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. *Grote's Petition:* Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, Grote submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of Grote's petition was published, with a 30-Day public comment period, on September 15, 2014 in the **Federal Register** (79 FR 55066). One comment was received but was removed from the docket because its content was not relevant to the petition. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to

locate docket number ''NHTSA–2014–0093.''

II. *Equipment Involved:* Affected are approximately 869 spools of Grote nylon air brake tubing that was manufactured during the period December 2013 to March 2014.

III. *Noncompliance:* Grote explains that the noncompliance is that, due to a production error, the affected air brake tubing is not properly marked in accordance with paragraph S11.2.1(a) of FMVSS No. 106, which requires plastic air brake tubing to be marked with a designation that identifies the manufacturer of the tubing. In addition, some of the tubing also does not comply with paragraph S11.2.1(e) of FMVSS No. 106 which requires plastic air brake tubing to be marked with the letter ''A'' to indicate intended use in air brake systems. Specifically, all of the subject brake tubing was mismarked with the number ''1913'' in addition to ''GROTE'' and some of the tubing was also mismarked with the letter ''B,'' instead of the letter ''A.''

IV. *Rule Text:* Paragraph S11.2 of FMVSS No. 106 requires in pertinent part:

S11.2 Labeling.

S11.2.1 Plastic air brake tubing. Plastic air brake tubing shall be labeled, or cut from bulk tubing that is labeled, at intervals of not more than 6 inches, measured from the end of one legend to the beginning of the next, in block capital letters and numerals at least one-eighth of an inch high, with the information listed in paragraphs (a) through (e) of this section. The information need not be present on tubing that is sold as part of a motor vehicle.

(a) The symbol DOT, constituting a certification by the hose manufacturer that the hose conforms to all applicable motor vehicle safety standards. . . .

(e) The letter ''A'' shall indicate intended use in air brake systems.

V. *Summary of Grote's Analyses:* Grote stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

Grote believes that these labeling noncompliances are inconsequential to motor vehicle safety because both the manufacturer designation and the intended use are otherwise clearly marked on the tubing.

Grote stated its belief that the purpose of the manufacturer identification requirement is to permit identification of products in the event of a product recall. If a recall of the subject air brake tubing was to become necessary the affected tubing could easily be identified by the GROTE name, which is conspicuously marked on all of the affected tubing.

Grote also stated its belief that the manufacturer associated with the identification number ''1913'' has not existed since 1977 and are are not aware of any manufacturer currently marketing air brake tubing under the ''Samuel Moore'' brand.[1]

The purpose of the ''A'' letter designation requirement is to indicate that the product is intended for use in air brake applications. As noted above, some of the products are marked as ''SAE J844 Type B'' instead of the letter ''A.'' Type B tubing is an SAE J844 designation that identifies reinforced air brake tubing. This designation is widely recognized among truck maintenance and service personnel. Regardless, the subject hose is also clearly and prominently marked with the phrase, ''GROTE AIR BRAKE,'' eliminating any possible confusion or misunderstanding as to the intended application of the product.

In addition, Grote stated its belief that NHTSA has made analogous inconsequentiality determinations in similar situations related to other products where a required label was missing, but the product contained other markings that conveyed the same or similar information. See Bridgestone Americas Tire Operations, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 35357 (June 12, 2013); Bridgestone Americas Tire Operations, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 71 FR 4396 (Jan. 26, 2006); and Delphi Corporation, Grant of Petition for Decision of Inconsequential Noncompliance, 69 FR 41331 (July 8, 2004).

Grote also informed NHTSA that it has corrected the noncompliance so that all future production nylon air brake tubing will comply with FMVSS No. 106.

In summation, Grote believes that the described noncompliance of the subject nylon air brake tubing is inconsequential to motor vehicle safety, and that its petition, to exempt Grote from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA Decision

NHTSA Analysis: FMVSS No. 106 specifies labeling and performance requirements for brake hoses and plastic air brake tubing. Paragraph S11.2 of the standard requires, in addition to other labeling requirements, that the manufacturer label air brake tubing with a designation that identifies the manufacturer (this designation is filed in writing with the NHTSA's Office of Vehicle Safety Compliance,) and the letter ''A'' to indicate intended use in air brake systems.

Grote states that the affected is marked with the manufacturer's designation ''GROTE'' along with the digits ''1913.'' In addition, some of the affected tubing is also marked with the letter ''B'' as opposed to the letter ''A'' to indicate use in air brake systems.

The purpose of the manufacturer designation label is to identify the manufacturer in the event of safety related issues with the brake hose. In this case the manufacturer's designation, ''GROTE'' is printed next to the following words ''AIR BRAKE TUBING.'' NHTSA believes that this labeling should make it readily apparent that Grote is the manufacturer of the tubing. Should someone attempt to use the ''1913'' number to identify the manufacturer of the tubing, the manufacturer identified by that designation in NHTSA's publically available manufacturer database, Eaton Corporation, should be able to verify that it was not the manufacturer of the tubing leaving Grote as the manufacturer to be contacted.

For those brake hoses printed with the letter ''B'' instead of ''A'', the words ''AIR BRAKE TUBING'' printed on the tubing indicates that the tubing is intended for use in air brake systems. In addition, FMVSS No. 106 does not associate any meaning to a ''B'' marking on brake hoses or tubes.

NHTSA Decision: In consideration of the foregoing, NHTSA has decided that Grote has met its burden of persuasion that the FMVSS No. 106 noncompliance is inconsequential to motor vehicle safety. Accordingly, Grote's petition is hereby granted and Grote is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject air brake tubing that Grote

[1] After receiving Grote's petition, based on a submission from Eaton Corporation, NHTSA revised its records to indicate that the brake hose manufacturer identification ''1913'' ceded to Eaton Corporation due to its acquisition of Moore, Samuel, and Company, Synflex Division.

no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve Grote distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant air brake tubing under their control after Grote notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2015–01037 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0124; Notice 2]

Custom Glass Solutions Upper Sandusky Corporation, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Custom Glass Solutions Upper Sandusky Corporation (Custom Glass), a subsidiary of Guardian Industries Corporation, has determined that certain laminated glass panes, other than windscreens, do not fully comply with paragraph S6 of Federal Motor Vehicle Safety Standard (FMVSS) No. FMVSS 205, *Glazing Materials.* Custom Glass has filed an appropriate report dated September 17, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

ADDRESSES: For further information on this decision contact Luis Figueroa, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5298, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. *Custom Glass's Petition:* Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provision at 49 CFR part 556, Custom Glass submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on September 25, 2014 in the **Federal Register** (79 FR 57654). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2013–0124.''

II. Glazing Involved: Approximately 160 laminated glass panes, other than windscreens, intended for the cabs of approximately twenty mining vehicles being manufactured by Atlas Copco in Australia. The panes consist of two 4.0 mm tempered panes manufactured by Auto Temp, Inc. (ATI) that were bonded together with a 0.76 mm PVB layer by Custom Glass and then shipped to Angus Palm, Watertown, South Dakota between August 1, 2013 and September 4, 2013.

III. *Noncompliance:* Custom Glass explains that the noncompliance is that the labeling on the subject laminated glass panes does not fully meet the requirements of paragraph S6 of FMVSS No. 205. The panes were labeled with the incorrect manufacturer's code mark, incorrect manufacturer's trademark, and incorrect manufacturer's model number, and were incorrectly marked as Tempered.

IV. *Rule Text:* Refer to the entire text of Paragraph S6 of FMVSS No. 205 for requirements and contextual restrictions.

V. *Summary of Custom Glass's Analyses:* Custom Glass stated its belief that the subject noncompliance is inconsequential to motor vehicle safety based on the following reasoning:

The parts are incorrectly labeled with the manufacturer's code mark and manufacturer's trademark belonging to the tempered glazing supplier, ATI. The correct manufacturer's code mark, which should have been affixed to the parts at issue, is DOT 22. The correct manufacturer's model number is M85L2 (which identifies laminated glass construction with an 8.5 mm nominal thickness, from which Guardian fabricates automotive parts for use anywhere in a motor vehicle except windshields). The panes are marked with the correct item-of-glazing number.

Although the subject laminated glass panes are affixed with the incorrect manufacturer's code mark, manufacturer's model number and manufacturer's trademark, the laminated glass parts were fabricated is in full compliance with the technical requirements of FMVSS No. 205 that currently apply to laminated glass for use anywhere in a motor vehicle except windshields (item-of-glazing number ''2,'' *i.e.,* ''AS–2'')

Custom Glass also asserts that the subject noncompliance could not result in the wrong part being used in an OEM or ARG application given that the part would be ordered by its unique part number and not the manufacturer's model number (which corresponds to the glass construction from which the part is fabricated). The parts are also easily traceable back to Custom Glass since they are the only glazing supplier for this particular vehicle.

Custom Glass has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles delivered with laminated glass will comply with FMVSS No. 205.

In summation, Custom Glass believes that the described noncompliance of the subject laminated glass parts is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA Decision

NHTSA Analysis: FMVSS No. 205 specifies labeling and performance requirements for automotive glazing. Paragraph S6 of FMVSS No. 205 requires glazing material manufacturers to certify, in accordance with 49 U.S.C. 30115, each piece of glazing material to which this standard applies. A prime glazing material manufacturer certifies its glazing by adding to the marks required in Section 7 of ANSI Z26.1 (1996), the symbol ''DOT'' and a manufacturer's code mark assigned by the NHTSA's Office of Vehicle Safety Compliance. Section 7 of ANSI Z26.1 (1996) requires manufacturers to mark automotive glazing with the item of glazing number, *e.g.,* ''AS–1'', the manufacturer's distinctive designation or trademark, and a model number that will identify the type of construction of the glazing material. Section 7 of ANSI Z26.1 (1996) states that the item of glazing number is to be placed in close proximity to other required markings.

In its petition Custom Glass stated that labeling on the affected glazing that did meet all applicable requirements of FMVSS No. 205 and ANSI Z26.1 (1996). Specifically, the glazing was marked with the incorrect manufacturer's code mark, incorrect manufacturer's trademark, and incorrect manufacturer's model number (*i.e.,* M number). The glazing was also incorrectly marked ''Tempered'' as opposed to

''Laminated''. The noncompliance is limited to laminated glass panes, other than windscreens, to be used in the cabs of approximately twenty mining vehicles manufactured by Atlas Copco in Australia.

NHTSA believes that the subject labeling errors are inconsequential to motor vehicle safety because; the marking of glazing as ''Tempered'' or ''Laminated'' is not required by FMVSS No. 205, the probability of anyone in the United States obtaining the subject incorrectly marked glazing as replacement glazing is very unlikely since the affected glazing is specifically designed for use in mining vehicles manufactured by Atlas Copco in Australia. In addition, there is no concern that the wrong model number on the subject glazing would result in an incorrect replacement part being used because replacement parts are ordered by referring to the glazing part number or by identifying the vehicle for which the replacement glazing is intended. Custom Glass is the only glazing supplier for the vehicles and any replacement glazing acquired from Custom Glass in the future is expected to be marked correctly, and the subject glazing appears to comply with all other applicable requirements of FMVSS No. 205.

NHTSA Decision: In consideration of the foregoing, NHTSA has decided that Custom Glass has met its burden of persuasion that the FMVSS No. 205 noncompliance is inconsequential to motor vehicle safety. Accordingly, Custom Glass's petition is hereby granted and Custom Glass is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject laminated glass parts that Custom Glass no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant motor laminated glass parts under their control after Custom Glass notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2015–01038 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0127]

Pipeline Safety: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration.

ACTION: Notice and request for comments.

SUMMARY: On October 28, 2014, in accordance with the Paperwork Reduction Act of 1995, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a notice in the **Federal Register** (79 FR 64249) inviting comments on two information collections that will be expiring on May 31, 2015. PHMSA will request an extension with no change for the information collections identified by Office of Management and Budget (OMB) control numbers 2137–0049 and 2137–0594.

PHMSA received one comment in response to that notice. PHMSA is publishing this notice to provide the public with an additional 30 days to comment on the renewal of the information collections referenced above and announce that the Information Collections will be submitted to OMB for approval.

DATES: Interested persons are invited to submit comments on or before February 23, 2015 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Cameron Satterthwaite by telephone at 202–366–1319, by email at *cameron.satterthwaite@dot.gov,* by fax at 202–366–4566, or by mail at U.S. Department of Transportation, PHMSA, 1200 New Jersey Avenue SE., PHP–30, Washington, DC 20590–0001.

ADDRESSES: You may submit comments identified by the docket number PHMSA–2014–0127 by any of the following methods:

- *Fax:* 1–202–395–5806.
- *Mail:* Office of Information and Regulatory Affairs, Records Management Center, Room 10102 NEOB, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer for the U.S. Department of Transportation\PHMSA.
- *Email:* Office of Information and Regulatory Affairs, OMB, at the following email address: *OIRA_Submission@omb.eop.gov.*

Requests for a copy of the Information Collection should be directed to Cameron Satterthwaite by telephone at 202–366–1319, by fax at 202–366–4566, by email at *cameron.satterthwaite@dot.gov,* or by mail at U.S. Department of Transportation, PHMSA, 1200 New Jersey Avenue SE., PHP–30, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), Title 5, Code of Federal Regulations requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies two information collection renewal requests that PHMSA will be submitting to OMB for approval. The information collections are titled: ''Recordkeeping for Natural Gas Pipeline Operators'' (2137–0049) and ''Customer-Owned Service Lines'' (2137–0594).

Summary of Comments Received

During the 60-day comment period, PHMSA received one comment from an anonymous submitter that emphasized the general importance of public participation regarding pipeline safety requirements.

Proposed Information Collection Revisions and Request for Comments

The following information is provided for each revised information collection: (1) Title of the information collection; (2) OMB control number; (3) Type of request; (4) Abstract of the information collection activity; (5) Description of affected public; (6) Estimate of total annual reporting and recordkeeping burden; and (7) Frequency of collection. PHMSA will request a three-year term of approval for each information collection activity. This is a notice of PHMSA's request to renew the following information collections:

1. *Title:* Recordkeeping Requirements for Gas Pipeline Operators.

OMB Control Number: 2137–0049.

Current Expiration Date: 05/31/2015.

Type of Request: Renewal of a currently approved information collection.

Abstract: Under Title 49, CFR parts 191 and 192, a person owning or operating a natural gas pipeline facility is required to maintain records, make

reports, and provide information to PHMSA upon request.

Affected Public: Owners and operators of natural gas pipeline facilities.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 12,300.

Total Annual Burden Hours: 940,454.

Frequency of Collection: On occasion.

2. *Title:* Customer-Owned Service Lines.

OMB Control Number: 2137–0594.

Current Expiration Date: 02/28/2015.

Type of Request: Renewal of a currently approved information collection.

Abstract: This collection of information about gas customers required by Title 49, CFR 192.16 is used by operators to understand how their customers' buried pipelines are being maintained and by the Office of Pipeline Safety and state authorities to review operator compliance.

Affected Public: Owners and operators of natural gas pipeline facilities; state and local governments.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 555,000.

Total Annual Burden Hours: 9,167.

Frequency of Collection: On occasion.

Comments are invited on:

(a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical or other technological collection techniques.

Issued in Washington, DC, on January 20, 2015.

John A. Gale,

Director, Office of Standards and Rulemaking.

[FR Doc. 2015–01152 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline And Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0126]

Pipeline Safety: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration.

ACTION: Notice and request for comments.

SUMMARY: On October 20, 2014, in accordance with the Paperwork Reduction Act of 1995, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a notice in the **Federal Register** (79 FR 62707) inviting comments on two information collections that will be expiring in 2015. PHMSA requests an extension with no change for the information collection identified by Office of Management and Budget (OMB) control number 2137–0048. In addition, PHMSA proposed a revision to the information collection identified under OMB control number 2137–0600. This revision updates the number of respondents used in the burden calculation but does not add to or change the type of information being collected.

PHMSA received no comments in response to that notice. PHMSA is publishing this notice to provide the public with an additional 30 days to comment on both the renewal and the revision of the information collections referenced above and announce that the Information Collections will be submitted to OMB for approval.

DATES: Interested persons are invited to submit comments on or before February 23, 2015 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Cameron Satterthwaite by telephone at 202–366–1319, by email at *cameron.satterthwaite@dot.gov,* by fax at 202–366–4566, or by mail at U.S. Department of Transportation, PHMSA, 1200 New Jersey Avenue SE., PHP–30, Washington, DC 20590–0001.

ADDRESSES: You may submit comments identified by the docket number PHMSA–2014–0126 by any of the following methods:

- *Fax:* 1–202–395–5806.
- *Mail:* Office of Information and Regulatory Affairs, Records Management Center, Room 10102 NEOB, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer for the U.S. Department of Transportation\PHMSA.
- *Email:* Office of Information and Regulatory Affairs, OMB, at the following email address: *OIRA_Submission@omb.eop.gov.*

Requests for a copy of the Information Collection should be directed to Cameron Satterthwaite by telephone at 202–366–1319, by fax at 202–366–4566, by email at *cameron.satterthwaite@dot.gov* or by mail at U.S. Department of Transportation, PHMSA, 1200 New Jersey Avenue SE., PHP–30,Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), Title 5, Code of Federal Regulations requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies two revised information collection requests that PHMSA will submit to OMB for approval. The information collections are titled: ''Recordkeeping Requirements for Liquefied Natural Gas (LNG) Facilities (2137–0048) and ''Qualification of Pipeline Safety, Training'' (2137–0600).

The following information is provided for each revised information collection: (1) Title of the information collection; (2) OMB control number; (3) Type of request; (4) Abstract of the information collection activity; (5) Description of affected public; (6) Estimate of total annual reporting and recordkeeping burden; and (7) Frequency of collection. PHMSA will request a three-year term of approval for each information collection activity. PHMSA requests an extension with no change for the information collection identified by Office of Management and Budget (OMB) control number 2137–0048. In addition, PHMSA requests a revision to the information collection identified under OMB control number 2137–0600. This revision updates the number of respondents used in the burden calculation but does not add to or change the type of information being collected.

1. *Title:* Recordkeeping Requirements for Liquefied Natural Gas (LNG) Facilities.

OMB Control Number: 2137–0048.

Current Expiration Date: 02/28/2015.

Type of Request: Renewal with no change of a currently approved information collection.

Abstract: In accordance with Title 49, CFR part 193, LNG facility owners and operators are required to maintain records, make reports and provide information to PHMSA upon request.

Affected Public: Owners and operators of liquefied natural gas facilities.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 101.
Total Annual Burden Hours: 12,120.
Frequency of Collection: On occasion.
2. *Title:* Qualification of Pipeline Safety Training.
OMB Control Number: 2137–0600.
Current Expiration Date: 04/30/2015.
Type of Request: Revision of a currently approved information collection.
Abstract: All individuals responsible for the operation and maintenance of pipeline facilities are required to be properly qualified to safely perform their tasks. Title 49 CFR 192.807 and 195.507 require each operator to maintain records that demonstrate compliance with the mandated qualification criteria. Records must be kept and be provided to PHMSA upon request.
Affected Public: Operators of pipeline facilities.
Annual Reporting and Recordkeeping Burden:
Total Annual Responses: 29,167.
Total Annual Burden Hours: 466,672.
Frequency of Collection: On occasion.
Comments are invited on:
(a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;
(b) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and
(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Issued in Washington, DC, on January 20, 2015.

John A. Gale,

Director, Standards and Rulemakings.

[FR Doc. 2015–01153 Filed 1–22–15; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35894]

Motive Rail, Inc. d/b/a Missouri North Central Railroad—Lease and Operation Exemption—Rail Line of Sault Ste. Marie Bridge Company

Motive Rail, Inc., d/b/a Missouri North Central Railroad (MNCR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to operate, pursuant to a track lease and an operating agreement, approximately 9,504 linear feet of track presently owned by the Sault Ste. Marie Bridge Company (SSMBC), extending between milepost 24.5 and milepost 22.7 in Quinnesec, Mich. (the Line).

MNCR states that while its agreement with SSMBC provides MNCR with a nonexclusive agreement to provide common carrier rail operations over the Line, SSMBC will retain the right to provide service over the Line. According to MNCR, there are no agreements applicable to the Line imposing any interchange commitments.

MNCR states that it intends to consummate this transaction ''30 days from the date of [its] notice, probably around early to mid-February 2015.'' The earliest this transaction may be consummated is February 6, 2015, the effective date of this exemption (30 days after the verified notice was filed).

MNCR certifies that the projected annual revenues as a result of this transaction will not result in MNCR's becoming a Class I or II rail carrier and will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed by January 30, 2015 (at least seven days prior to the date the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35894, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on applicant's representative, John D. Heffner, Strasburger & Price, LLP, 1025 Connecticut Ave. NW., Suite 717, Washington, DC 20036.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: January 20, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2015–01124 Filed 1–22–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0822]

Information Collection (Reimbursement of Certain Medical Expenses for Camp Lejeune Family Members)

AGENCY: Department of Veterans Affairs.

ACTION: Notice; correction

SUMMARY: The Department of Veterans Affairs (VA) published a collection of information notice in a **Federal Register** on December 23, 2014, that contained errors. The notice incorrectly stated the summary and the abstract. This document corrects the errors by updating the abstract and summary.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at 202–632–7492.

Correction

In FR Doc. 2014–29931, published on December 23, 2014, at 79 FR 77096, make the following correction. On page 77096, in the first column, the **SUMMARY** should read as follows:

''The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revised collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to furnish hospital care and medical services to the family members of certain veterans who were stationed at Camp Lejeune. In order to furnish such care, VA must collect certain information from the family members to ensure that they meet the requirements of the law. The specific hospital care and medical services that VA must provide are for a number of illnesses and conditions connected to exposure to contaminated drinking water while at Camp Lejeune.''

The Abstract should read as follows:

''Under 38 U.S.C. 1787, VA is required to furnish hospital care and medical services to the family members of certain veterans who were stationed at Camp Lejeune between 1957 and 1987. In order to furnish such care, VA must collect certain information from the family members to ensure that they meet the requirements of the law. VA cannot furnish the statutorily-mandated hospital care and medical services until the collection of information is approved. The specific hospital care and medical services that VA must provide are for a number of illnesses and conditions connected to exposure to contaminated drinking water while at Camp Lejeune.''

Dated: January 20, 2015.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2015–01130 Filed 1–22–15; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 80 Friday,
No. 15 January 23, 2015

Part II

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 571
Federal Motor Vehicle Safety Standards; Child Restraint Systems, Child Restraint Anchorage Systems; Incorporation by Reference; Proposed Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2014–0123]

RIN 2127–AL20

Federal Motor Vehicle Safety Standards; Child Restraint Systems, Child Restraint Anchorage Systems; Incorporation by Reference

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: In accordance with NHTSA's 2011–2013 Priority Plan and the Moving Ahead for Progress in the 21st Century Act (MAP–21), this document proposes to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 225, ''Child restraint anchorage systems,'' to improve the ease of use of the lower anchorages of child restraint anchorage systems and the ease of use of tether anchorages. This document also proposes changes to FMVSS No. 213, ''Child restraint systems,'' to amend labeling and other requirements to improve the ease of use of child restraint systems with a vehicle anchorage system. This NPRM proposes rulemaking on these and other requirements to increase the correct use of child restraint anchorage systems and tether anchorages, and the correct use of child restraints, with the ultimate goal of reducing injuries to restrained children in motor vehicle crashes.

DATES: Comments must be received on or before March 24, 2015.

Proposed compliance date: We propose that the compliance date for the amendments in this rulemaking action would be three years following the date of publication of the final rule in the **Federal Register**. We propose to permit optional early compliance with the amended requirements.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Regardless of how you submit your comments, please mention the docket number of this document.

You may also call the Docket at 202–366–9324.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Please see the Privacy Act heading under Rulemaking Analyses and Notices.

FOR FURTHER INFORMATION CONTACT: For technical issues, you may call Cristina Echemendia, Office of Crashworthiness Standards (telephone: 202–366–6345) (fax: 202–493–2990). For legal issues, you may call Deirdre Fujita, Office of Chief Counsel (telephone: 202–366–2992) (fax: 202–366–3820). Address: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

Introduction

In accordance with NHTSA's 2011–2013 Priority Plan and Subtitle E of MAP–21, this document proposes to amend FMVSS No. 225 to improve the ease of use of child restraint anchorage systems. First, we propose to amend FMVSS No. 225 to adopt requirements that would make it easier for consumers to attach child restraints to the lower anchorages of child restraint anchorage systems. The requirements would ensure that vehicle manufacturers produce lower anchorages that: (a) Have sufficient clearance around each lower anchorage for consumers to maneuver the child restraint system (CRS) connector; (b) are located such that the CRS connector can be attached to the bar using a reasonable amount of force; and, (c) are within two centimeters (cm) of the outer surface of the ''seat bight'' (the seat bight is approximately the intersection of the seat bottom cushion and seat back cushion).

Second, we propose to make tether anchorages easier to use by standardizing the configuration of the anchorage such that it is ''a rigid bar of any cross section shape,'' by prohibiting the anchorages from being placed under a vehicle seat or hidden under carpet, and by requiring them to be placed where there is enough space around the anchorage for consumers to tighten the tether strap.

Third, this document proposes to amend FMVSS No. 225 and FMVSS No. 213 to require, among other things, vehicles and CRSs to use a standardized symbol to more effectively identify the anchorages in the vehicle and the components on CRSs that attach to those anchorages.

In addition, this document requests comments on several issues relating to the usability of child restraint anchorage systems. We request comment on whether child restraint anchorage

systems and/or tether anchorages should be required in more rear seating positions than currently required, including in vehicles now excluded from FMVSS No. 225. We also request comment on the merits of requiring vehicle and CRS manufacturers to use standardized terminology in users' manuals in describing components of the child restraint anchorage system and the connectors of child restraint systems, to enhance consumer education and increase correct use of child restraint anchorage systems and child restraints. Finally, test data indicate that tether anchorages are sufficiently robust to provide crash protection to virtually all children restrained in a harnessed child restraint. We request comment on the merits of consumer information that advises consumers to attach the tether when restraining a child in a harnessed child restraint, regardless of the weight of the child.

Background

In 1999, NHTSA issued FMVSS No. 225,[1] a standard that requires vehicle manufacturers to equip vehicles with child restraint anchorage systems that are standardized and independent of the vehicle seat belts. The child restraint anchorage system required by FMVSS No. 225 is a 3-point system consisting of two lower anchorages and a tether anchorage designed for attaching a child restraint system to a vehicle. Each lower anchorage consists of a six millimeter (mm) diameter straight rod, or ''bar,'' onto which a CRS connector can be attached. The two lower anchorage bars are typically located at or near the seat bight in a position where they will not be felt by seated adult occupants. The tether anchorage is a part to which a tether hook of a CRS can be attached. Standard No. 225 requires vehicles with three or more forward-facing rear seating positions to be equipped with child restraint anchorage systems at not fewer than two rear seating positions and a tether anchorage at an additional rear seating position. That third tether anchorage can be used when installing a CRS with the vehicle's seat belt. The requirements of FMVSS No. 225 were phased into new vehicles from 1999 to 2002 beginning with the tether anchorage in passenger cars in 1999, and ending with full implementation of FMVSS No. 225 for passenger cars, multipurpose passenger vehicles (MPVs), and trucks and buses [2] on September 1, 2002.

The 1999 rule also amended FMVSS No. 213 to require CRSs to be equipped with connectors that enable the CRS to attach to the vehicle's lower anchorages of the child restraint anchorage system.[3] [4] A new head excursion performance requirement was added for forward-facing child restraints (other than booster seats), and to meet it, child restraints typically use a tether strap affixed to the top of the restraints. The tether strap must have a hook that is designed to attach to the tether anchorage of the child restraint anchorage system (see S5.9(b) of FMVSS No. 213).

In this NPRM we use the following term for the full vehicle system: ''Child restraint anchorage system.'' [5] We use the following for the lower anchorage points of a child restraint anchorage system: ''Lower anchorage(s).'' The tether securement point is called a ''tether anchorage.'' For the CRS, we use the following terms to refer to the various parts of a child restraint that connect to the child restraint anchorage system, as appropriate: ''Child restraint system connectors (or CRS connectors),'' ''lower anchorage connector(s),'' ''tether anchorage connector,'' ''tether strap,'' and ''tether hook.''

Developments Post-1999 Final Rule

Child restraint anchorage systems meeting FMVSS No. 225, and child restraints meeting the associated requirements of FMVSS No. 213, have been successfully implemented in the fleet. Consumers who use the system generally like the system.[6] However, many consumers do not use child restraint anchorage systems because they do not know enough about the systems.[7] Many consumers also misuse the child restraint anchorage system or find aspects of it difficult to use.

In 2007, NHTSA held a public meeting on child restraint anchorage systems to see how the systems could be improved.[8] There were repeated comments at the meeting that the lower anchorages often were embedded deep into the seat bight, making it difficult for consumers to reach the lower anchorages and attach the lower anchorage connectors. There were also complaints that it was difficult to attach lower anchorage connectors to the lower anchorages because of surrounding stiff cushions or fabric/leather or the proximity of seat belt buckles.

Following the 2007 meeting, the agency identified improving the ease of use of child restraint anchorage systems as an area of significance to NHTSA. NHTSA announced in the NHTSA Vehicle Safety and Fuel Economy Rulemaking and Research Priority Plan 2011–2013 (March 2011) (''2011 Priority Plan'') [9] that the agency is addressing issues to improve the usability of child restraint anchorage systems and may initiate rulemaking on issues relating to the presence of anchorage systems in center rear seats, tether anchorage locations, weight limits of anchorages,[10] and labeling of the anchorage locations.

[1] 49 CFR 571.225.

[2] Specifically, trucks and MPVs with a gross vehicle weight rating (GVWR) of 3,855 kilograms (kg) (8,500 pounds (lb)) or less, and to buses with a GVWR of 4,536 kg (10,000 lb) or less.

[3] 49 CFR 571.213, sections S5.3.2, S5.9. Excepted from the requirement were booster seats, car beds, and harnesses.

[4] Additionally, Standard No. 213 requires all CRSs to be capable of attachment to the vehicle seat by a seat belt, even if the CRS has lower anchorage connectors.

[5] Many in the child passenger safety community refer to the child restraint anchorage system as the ''LATCH'' system, an abbreviation of the phrase ''Lower Anchors and Tethers for Children.'' The term was developed by a group of manufacturers and retailers soon after the 1999 final rule, for use in educating consumers on the availability and use of the anchorage system and for marketing purposes. ''LATCH'' has been used in various materials in the field and by NHTSA to refer to the vehicle 3-point child restraint anchorage system, but at times the term has been used to refer just to the lower two anchorages of the system, and at times it has been used to refer to the connectors of the child restraint system that attach to the lower anchorages. Also, apparently a number of consumers identify the tether anchorage solely with the ''LATCH'' system, and so mistakenly do not attach the CRS's tether strap when using the vehicle belt system to attach a child restraint. Because some ambiguity has developed with the use of the term ''LATCH,'' we generally avoid using the term ''LATCH'' in this NPRM when possible.

[6] Decina, L., et al., ''Child Restraint Use Survey: LATCH Use and Misuse,'' December 2006, (''Decina study''), DOT HS 810 679, Docket No. NHTSA–2006–26735. The Decina study is summarized in Appendix A to this preamble.

[7] Id.

[8] Docket No. NHTSA–07–26833. A summary of the public meeting can be found in Appendix B to this preamble.

[9] *http://www.nhtsa.gov/staticfiles/rulemaking/pdf/2011-2013_Vehicle_Safety-Fuel_Economy_Rulemaking-Research_Priority_Plan.pdf*

[10] The agency addressed the issue of the weight limit of the lower anchorages by a new labeling requirement that informs consumers of the load limits of the child restraint anchorage system. See 77 FR 11626, February 27, 2012; response to petition for reconsideration, 79 FR 10396, February 25, 2014. NHTSA originally designed the child restraint anchorage systems to be strong enough to withstand crash forces generated by a 29.5 kg (65 lb) mass (the mass would be from the child restraint plus the restrained child). Child restraint systems and the children for whom many of them are designed have become heavier over the years. To ensure the lower anchorages are strong enough to hold the CRS plus child in serious and severe crashes, NHTSA adopted a labeling requirement applying to child restraints which, together with the restrained child, would impose a combined weight over 29.5 kg (65 lb) on the lower anchorages. These CRSs must have a label informing consumers to use the seat belt system instead of the lower anchorages to attach the child restraint to the vehicle seat once the combined weight exceeds 29.5 kg (65 lb).

The ease of use of child restraint anchorage systems is inherently challenging because the vehicle is manufactured by one party and the child restraint is manufactured by another. The vehicle seat is designed with occupant comfort and safety in mind, along with aesthetics; child restraint compatibility can be difficult to plan for given the wide and constantly changing array of child restraints. Through usability requirements adopted in the 1999 final rule, we improved the interface between the vehicle anchorage system and the child restraint. Yet, our improvements for the vehicle side focused on standardizing the parameters of the 3-point anchorage system and specifying where the anchorage system should be positioned overall in a vehicle and relative to a ''child restraint fixture'' (CRF) test device to optimize ease of use. Although the 1999 final rule recognized the importance of having the lower anchorages visible or marked with an emblem signaling the presence and location of the anchorages, the final rule was the first undertaking by any country to establish a universal child restraint anchorage system independent of the vehicle belts. Thus, in making the first step toward standardizing a child restraint anchorage system, the agency only partially standardized the marking, and did not regulate features of the vehicle seat relating to cushion stiffness and other characteristics of the vehicle seat. For similar reasons, NHTSA refrained from standardizing CRS features that might affect compatibility, such as CRS size and mass.

New Information Improving Anchorage Systems

New information from the University of Michigan Transportation Research Institute (UMTRI) has identified characteristics of the vehicle seat that UMTRI has found to enhance the usability of child restraint anchorage systems. In April 2012, UMTRI published a study [11] titled, ''LATCH Usability in Vehicles'' (hereinafter ''LATCH Usability study''), that identified vehicle seat characteristics shown to affect the quality of child restraint installations. UMTRI found that the correct use of lower anchorages was associated with the following features:

- ''Clearance angle'' greater than 54 degrees (clearance angle relates to the clearance around a lower anchorage from interfering parts that can make it difficult to maneuver the CRS lower anchorage connector);
- ''attachment force'' of 178 Newtons (N) (40 pounds (lb)) or less (attachment force is the amount of force needed to attach a lower anchorage connector); and,
- ''anchorage depth'' (location of the anchorage within the seat bight) of less than 2 centimeters (cm).

Further, improved designs in anchorage markings have been developed by the International Standardization Organization (ISO) that can better communicate to the consumer the location and presence of the lower anchorages and tether anchorage, and further harmonize the safety standard with those of other countries.

Today's NPRM uses the information from UMTRI and ISO to propose enhancements to the usability requirements in FMVSS No. 225.

Overview of Proposal

Our ease of use improvements focus on reducing the physical effort needed to attach a child restraint to the lower anchorages and to the tether anchorage, and on improving how easily the anchorages can be correctly identified and accessed by a consumer.

Ease of Using Lower Anchorages

FMVSS No. 225's current location requirements for the lower anchorage bars intend for the bars to be accessible, but some consumers find it difficult to use the bars. We propose new requirements for the bars to improve ease of use: a minimum clearance angle of 54 degrees, a maximum attachment force of 178 N (40 lb), and a location limit of less than 2 cm within the seat bight. These are the ease of use specifications the UMTRI LATCH Usability study found to correlate with correct child restraint installation by test subjects.

Ease of Using Tether Anchorages

Standard No. 225 currently requires vehicle manufacturers to equip vehicles with a tether anchorage at three rear designated seating positions (two of these positions are also required to be equipped with lower anchorages) that enables the attachment of a standardized tether hook. The standard currently requires tether anchorages to be located in a specified zone and to be accessible without the need for any tools other than a screwdriver or coin. To improve the usability of the tether anchorage, we propose the following requirements to make it easier for consumers to recognize and reach the anchorage.

- We propose to amend FMVSS No. 225 to reduce the zone in which a tether anchorage must be located, to prevent tether anchorages from being placed deep under a vehicle seat.
- We propose to require tether anchorages to be accessible without the need for any tools and without folding the seat back or removing carpet or other vehicle components. (The tether anchorage may be covered with a cap, flap or cover, provided that the cap, flap or cover is specifically designed to be opened, moved aside or to otherwise give access to the anchorage without the use of any tools and is labeled with a specific symbol indicting the presence of the tether anchorage underneath.)
- Almost all tether anchorages are rigid metal bars, but there are a few made from flexible webbing, which confuses some consumers who are looking for a bar. We propose amending FMVSS No. 225 to require the tether anchorage to be a rigid bar.
- Some tether anchorages are too close to a structure, such as a head restraint, to allow tightening of the tether strap. We propose to specify a minimum 165 mm (6.5 in) distance from a reference point on the vehicle seat to the tether anchorage so that adequate clearance will be provided for tightening of the tether strap. We also propose amending FMVSS No. 213 to limit the length of the CRS tether hardware assembly (which consists of a tether hook and hardware to tighten and loosen the tether strap) to 165 mm (6.5 in) so that the tightening mechanism can be easily used in the newly-specified clearance space around a tether anchorage.

Enhanced Ability To Identify Anchorages

Standard No. 225 currently requires the lower anchorage bars either to be visible or the vehicle seat back marked showing the location of the bars. To improve consumers' ability to find and use lower anchorages, we propose amending FMVSS No. 225 to require motor vehicles to be marked with the ISO-developed mark near the location of each lower anchorage bar, even if the lower anchorage is visible. Similarly, we propose requiring each tether anchorage to be marked with the ISO-developed mark for tether anchorages. In addition, we propose amending FMVSS No. 213 to require the ISO mark on the lower anchorage connectors (the components on the child restraint system that attach the child restraint to the lower anchorages of a child restraint

[11] Klinich et al., ''LATCH Usability in Vehicles,'' UMTRI–2012–7, April 2012. Link: *http://deepblue.lib.umich.edu/handle/2027.42/90856.* The report was sponsored by the Insurance Institute for Highway Safety (IIHS) for developing IIHS's rating of the usability of the child restraint anchorage systems in various vehicles. See IIHS Status Report: Vol. 47 No. 3, April 12, 2012.

anchorage system) and on the tether hook.[12] We also propose to require vehicle manufacturers to provide written information (*e.g.,* in vehicle owners' manuals) explaining the meaning of the ISO lower anchorage bar and tether anchorage markings, and to require child restraint manufacturers to explain (in the CRS user's manual) the meaning of the ISO mark on the lower anchorage connectors and tether hook.

Rulemaking Goal

The 2005 Decina study[13] found that many consumers did not know what child restraint anchorage systems were, that anchorages were available in the vehicle, the importance of using the anchorages or how to use them properly. We believe that as the requirements proposed today make the anchorages more conspicuous and more clearly marked, awareness should improve. With improved awareness, more consumers will likely attempt to use the anchorage system.[14]

The Decina study found that users who attempted to use child restraint anchorage systems generally liked the systems. Drivers with experience attaching a CRS using a child restraint anchorage system and using a vehicle seat belt strongly preferred using the lower anchorages over the seat belts. Moreover, the study also found that consumers were more likely to install a CRS correctly using a child restraint anchorage system than when a seat belt was used. NHTSA believes that as consumers' awareness of child restraint anchorage systems increases, more consumers will try them and more will use them. If the systems can be made easier to use, more consumers will like and regularly use the system compared to current usage.

UMTRI's LATCH Usability study found that test subjects who correctly used the lower anchorage hardware were 3.3 times more likely to achieve a tight CRS installation than subjects who made errors using the hardware. Thus, we believe that if child restraint anchorage systems can be made easier to use correctly, more consumers will achieve a tight fit of the CRS in the vehicle. The tight fit of the CRS will lead to reduced child head and torso excursions in motor vehicle crashes, and fewer child head and torso injuries in crashes.

Estimated Costs and Benefits

The agency estimates that the proposed requirements for improved usability of child restraint anchorage systems would not result in any increase in material cost, but would entail some redesign of vehicle seat features. Approximately 79 percent of vehicles would need some redesign to meet the proposed lower anchorage usability requirements. Some tether anchorages would have to be repositioned further from the head restraint to meet the minimum strap wrap-around distance requirement. A small number of vehicles that currently have webbing loops for tether anchorages would need to be changed to have rigid anchorage bars. The agency believes that these design modification are minor and mainly concern the vehicle seat and not the vehicle structure. NHTSA is proposing a 3-year lead time for complying with a final rule, which, we believe, would provide sufficient time for vehicle manufacturers to accommodate any redesign of the vehicle seat in their normal course of manufacture without a cost increase.

For child restraints, we estimate that approximately 30 percent of forward-facing child restraints may need to have minor modification made to the tether hardware assembly to meet the 165 mm (6.5 in) maximum length requirement. We are proposing a 3-year lead time to meet the requirement.

The proposal requires all the lower anchorages and tether anchorages to be marked with the ISO mark. We estimate the cost of ISO marks for a set of lower anchorages to be $0.05 and that for the tether anchorage to be $0.025. The total incremental cost of equipping all child restraint anchorage systems with appropriate ISO marks is about $0.58 million. The proposal also requires similar ISO marks on child restraint anchorage connectors, for which the agency estimates an incremental cost of $0.74 million. The cost of changing the written instructions accompanying the vehicle or the CRS to explain the ISO markings is expected to be negligible (<<$0.01). Therefore, the total cost of the proposed rule is estimated to be $1.32 million.

We believe that the new usability requirements would improve correct (tight) installation, and increase tether use. If there were a 5 percent increase in correct installation using the lower anchors and a 5 percent increase in tether use, the agency estimates that the proposed requirements would save approximately 3 lives and prevent 6 moderate to higher severity injuries.

II. Statutory Mandate

MAP–21 (Pub. L. 112–141) incorporates Subtitle E, ''Child Safety Standards.'' Subtitle E, § 31502(a), requires that not later than 1 year after the date of enactment of the Act, the Secretary shall initiate a rulemaking proceeding to amend FMVSS No. 225 ''to improve the ease of use for lower anchorages and tethers in all rear seat seating positions if such anchorages and tethers are feasible.'' Section 31502(b)(1) of MAP–21 states that, subject to exceptions, the Secretary must issue a final rule not later than 3 years after the date of enactment of MAP–21. An exception is for an amendment to Standard No. 225 which ''does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code [the National Traffic and Motor Vehicle Safety Act (Vehicle Safety Act)].''[15][16]

The agency has interpreted § 31502(a) as directing DOT to initiate rulemaking to improve the ease of use of lower anchorages and tether anchorages currently required by FMVSS No. 225 if improved anchorages are feasible. This interpretation is based on the plain meaning of the phrase ''improve the ease of use.'' We interpret ''improve'' to mean to enhance or increase the ease of use of prevailing FMVSS No. 225 lower anchorages and tether anchorages, which, in passenger cars and small MPVs, are present ''in all rear seat seating positions.'' Our 2011 Priority Plan took this approach in focusing on improving current tether anchorage locations and labeling of anchorage locations. This NPRM satisfies the mandate by proposing requirements that would improve the ease with which

[12] NHTSA is planning to develop new simplified education and consumer information programs building on the requirements proposed in this NPRM. Education efforts and consumer information programs would be developed to teach consumers to look for the ISO-developed marks in the vehicle to locate the lower anchorages and tether anchorages in their vehicles and to ''match'' them to the ISO marks on the CRS.

[13] ''Child Restraint Use Survey: LATCH Use and Misuse,'' *supra.*

[14] Field data show that use of child restraint anchorage systems has noticeably increased since 2006. National Child Restraint Use Special Study (NCRUSS), DOT HS 811 679, *http://www-nrd.nhtsa.dot.gov/Pubs/811679.pdf,* and ''A Look Inside American Family Vehicles 2009–2010,'' Safe Kids USA (*http://www.safekids.org/assets/docs/safety-basics/safety-tips-by-risk-area/sk-car-seat-report-2011.pdf*). These data are discussed in Appendix A of this preamble.

[15] See § 31502(b)(2). That section also specifies that in such case that an amendment does not meet the requirements and considerations of § 30111(a) and (b) of title 49, United States Code, the Secretary shall submit a report to Congress describing the reasons for not prescribing such a standard. [Footnote added.]

[16] Another exception is in § 31505, which specifies that if the Secretary determines that any deadline for issuing a final rule under this Act cannot be met, the Secretary shall provide Congress with an explanation for why such deadline cannot be met and establish a new deadline for that rule. [Footnote added.]

consumers can access and use the anchorages, and improve the visibility of the anchorages so that consumers can more easily identify them as parts of a child restraint anchorage system.

Furthermore, this document also requests comment on whether additional lower anchorages and tether anchorages should be required in vehicles. We request comment on the need for, and feasibility of, additional child restraint anchorage systems and tether anchorages in rear seating positions, particularly in the third row of vehicles with three rows of seating. We also request comments on the merits and feasibility of installing lower anchorages and tether anchorages in vehicles now excluded from requirements to provide such anchorages.

Section 31502 gives us discretion in determining whether a final rule in this rulemaking is warranted. We anticipate issuing a final rule unless an amendment ''does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.'' [17] The requirements and considerations of §§ 30111(a) and (b) apply to NHTSA's FMVSS rulemaking under the Vehicle Safety Act. Under § 30111(a), the Secretary is authorized to prescribe FMVSSs that are practicable, meet the need for motor vehicle safety, and are stated in objective terms. ''Motor vehicle safety'' is defined in the Vehicle Safety Act as ''the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.'' Under § 30111(b) of the Vehicle Safety Act, when prescribing such standards, the Secretary must consider relevant available motor vehicle safety information, consult with appropriate agencies, consider whether a standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or motor vehicle equipment for which it is prescribed, and consider the extent to which the standard will further the statutory purpose of reducing traffic accidents and deaths and injuries resulting from traffic accidents. We understand MAP–21 as directing us to determine, after initiating rulemaking, whether the changes under consideration to FMVSS No. 225 meet the requirements and considerations set forth in subsections (a) and (b) of 49 U.S.C § 30111 and are feasible. We will make a decision about a final rule after that assessment.

[17] § 31502(b)(2).

III. Efforts To Improve Vehicle/Child Restraint Compatibility and Ease of Use of Child Restraint Anchorage Systems

Following issuance of FMVSS No. 225, there have been several efforts to improve the compatibility of child restraint anchorage systems and CRSs, and the ease of using the systems.

a. ISO Rating System

ISO developed a rating system and criteria to provide child restraint and vehicle manufacturers tools for the assessment of the usability of ISOFIX [18] systems.[19] The ISO approach evaluates and rates the usability of a CRS's ISOFIX features, a vehicle's ISOFIX system, and the interaction between the two. ISO also provides consumers (parents and caregivers) with information to assist them in selecting a CRS and vehicle with ISOFIX systems that are easy to use, with the aim that the information will result in more correct installations. (More information about the ISO draft standard is in Appendix C to this preamble.)

b. SAE Guidelines

The Society of Automotive Engineers (SAE) developed a draft SAE recommended practice entitled J2893, ''Guidelines for Implementation of the Child Restraint Anchorage System in Motor Vehicles and Child Restraint Systems.'' [20] The document provides guidelines for vehicle manufacturers to consider when designing characteristics of vehicle lower and upper (tether) anchorages, and for CRS manufacturers for corresponding features of CRS lower anchorage and tether connectors, so that each product can be made more compatible with the other. SAE developed tools and procedures for evaluating the child restraint anchorage system hardware features in vehicles and on child restraints. The guidelines assess whether the child restraint fixture can attach to the lower anchorages, the force and clearance angles needed to attach to the lower anchorages, the collinearity of the lower anchorages, the marking of the anchorages with the ISO symbol, etc. (Appendix C to this preamble has more information about the SAE guidelines.)

[18] ISOFIX is a system, mostly used in Europe, for the connection of child restraint systems to vehicles. The system has two vehicle rigid anchorages, two corresponding rigid attachments on the child restraint system and a means to limit the pitch rotation of the child restraint system. While the ISOFIX system is not used in the U.S., the system is very similar to the FMVSS No. 225 child restraint anchorage system and therefore, the evaluation developed by ISO is relevant to our work here.

[19] ''Road vehicles—Methods and criteria for usability evaluation of child restraint systems and their interface with vehicle anchor systems—Part 1: Vehicles and child restraint systems equipped with ISOFIX anchors and attachments,'' (November 2010).

[20] The SAE J2893 recommended practice is designated as a ''work-in-progress'' by SAE and has not been finalized.

c. NCAP Vehicle-CRS Fit Program

On February 25, 2011, NHTSA published a **Federal Register** document requesting comment on the agency's plan to establish a new consumer information program, as part of the agency's New Car Assessment Program (NCAP), to improve compatibility between vehicles and child restraint systems and the ease of using the systems. The contemplated program involves vehicle manufacturers voluntarily providing NHTSA information about which CRSs fit in specific vehicle models, and NHTSA, in turn, posting this information on the NCAP Web site for consumers to use when making purchasing decisions. This ''Vehicle-CRS Fit program,'' still under consideration by NHTSA, is described in more detail in Appendix C of this preamble.

d. UMTRI's LATCH Usability Study

1. Overview of the Study

In 2012, UMTRI published a report entitled, ''LATCH Usability in Vehicles,'' [21] describing UMTRI's study to identify characteristics of child restraint anchorage systems that make the anchorage system easier to use. The study was conducted in three phases, the objectives of which were to:

- Survey model year (MY) 2010–2011 vehicles to document characteristics of child restraint anchorage systems in the current vehicle fleet;
- Evaluate the proposed ISO 29061–1: 2010 rating system (ratings for both the vehicle and the vehicle-to-child restraint interaction), SAE draft J2893 recommended practice,[22] and NHTSA's proposed NCAP Vehicle-CRS Fit program to see if outcomes from those programs are associated with quality installations by volunteer subjects; and,
- Conduct volunteer tests for evaluating the quality of child restraint

[21] Klinich et al., *supra.* Link: *http://deepblue.lib.umich.edu/handle/2027.42/90856.* The report was sponsored by the Insurance Institute for Highway Safety (IIHS) for developing IIHS's rating of the usability of the child restraint anchorage systems in various vehicles. See IIHS Status Report: Vol. 47 No. 3, April 12, 2012. *http://www.iihs.org/sr/default.aspx.*

[22] The SAE J2893 Version 1—Draft 7 was used for the study. SAE J2893 is still under development.

installations using vehicle features as the independent measures.

In the first phase of the study, UMTRI measured the child restraint anchorage system hardware and rear seat geometry of 98 top-selling MY 2010 and 2011 vehicles. The vehicles surveyed were those often used for transporting children that also represented a wide range of different child restraint anchorage system hardware. Included in the survey were passenger cars, minivans, sports utility vehicles (SUVs), and pickup trucks. The vehicle measurements were based on procedures in the ISO draft standard and the SAE draft recommended practice, and some additional measures developed for the study, such as the depth of the lower anchorages into the seat bight.

In the second phase, UMTRI calculated the usability scores for each vehicle in the survey using the protocols in ISO 29061–1: 2010,[23] SAE draft J2893,[24] and NHTSA's February 2011 NCAP Vehicle-CRS fit program under consideration. ISO ratings of vehicle child restraint anchorage system usability ranged from 41 percent to 78 percent. UMTRI calculated the ISO vehicle/child restraint interaction scores for 20 vehicles, identifying vehicles with a range of vehicle features, and 7 child restraints. ISO vehicle/child restraint interaction scores ranged from 14 percent to 86 percent. Vehicles assessed using the SAE draft recommended practice met between 2 and all 10 of the recommendations. UMTRI evaluated the proposed NHTSA Vehicle-CRS Fit program criteria at one rear seating position (behind the driver's seat) for 12 vehicles and 7 child restraints. The 7 CRSs selected represented a variety of restraint types (rear facing infant seats, convertible seats, combination seats and belt-positioning booster seats) and child restraint anchorage connector features. Of the 24 pairings with 12 vehicles and two rear-facing convertibles, one installation met all of NHTSA's proposed vehicle-CRS fit criteria. Twenty-three (23) installations of the 24 vehicle/infant seat pairings and 45 installations of the 48 vehicle/forward-facing harness CRS pairings met all of the proposed vehicle-CRS fit criteria.

In the third phase, UMTRI conducted volunteer testing using 36 subjects, 12 vehicles, and 3 CRS models to see if outcomes from the ISO, SAE and NCAP programs are associated with quality installations (correct installations) of child restraints by the subjects. The subset of 12 vehicles was chosen to provide a variety of child restraint anchorage system hardware characteristics. The 3 CRSs selected in this phase were the Safety First Alpha Omega Elite, Chicco KeyFit, and Graco SnugRide 30.

The study considered a ''correct'' installation to meet the following criteria:

(1) Tight installation—Child restraint did not move more than 1 inch laterally or fore/aft when tested with a moderate pull/push applied at the restraint belt path.

(2) Correct use of lower anchors (if applicable)—Child restraint connectors were fully engaged with the correct vehicle hardware in the correct orientation and the CRS belt webbing connecting to the child restraint anchorages was flat.

(3) Correct use of seat belt (if applicable)—Seat belt was routed through the correct belt path, was not twisted, and was buckled and locked correctly.

(4) Correct use of tether anchorage (if applicable)—Tether hook attached to the correct vehicle hardware in the correct orientation, routed around or under the head restraint as directed by the vehicle manual, and tightened so that there was 10 mm (0.39 in) or less of slack (measured by pinching the slack and measuring the height of the loop).

(5) Correct installation angle—Installation angle was considered correct for rear-facing installations if the restraint indicator was at the correct level, and was considered correct for forward-facing installations if the recline foot was in the forward-facing position.

2. Three Seat Characteristics Were Well Correlated With Correct Use

Using a series of mixed-model logistic regression models with various lower anchorage characteristics assessed in the study, UMTRI identified three features of lower anchorages that the volunteer testing showed were well correlated to the correct installation of CRSs. These were: Clearance angle, attachment force, and anchorage depth. UMTRI stated that the odds of correct CRS installation when the child restraint anchorage system met the minimum criterion for clearance angle, attachment force, and lower anchorage depth are 5, 9, and 7 times higher, respectively. UMTRI showed that subjects were 19 times more likely to correctly install the CRS if the vehicle met all three usability criteria than if none of the criteria were met. Using multi-variate regression analysis of the volunteer data, UMTRI found that subjects who correctly used the lower anchorage hardware were 3.3 times more likely to achieve a tight CRS installation than subjects who made errors using the hardware.

A. Clearance Angle

Clearance angle refers to the clearance around a lower anchorage from parts that interfere with the ability to maneuver the CRS lower anchorage connector. The interfering parts can include part of the vehicle seat structure or excessively stiff seat cushion material. Clearance angle is measured by a tool (specified in the SAE draft J2893 recommended practice) that attaches to the lower anchorages. In UMTRI's procedure a vertical force of 66.7 N (15 lb)[25] is applied to the tool. The angle the tool achieves when that force is applied is the ''clearance angle.''

UMTRI determined the performance limits for clearance angle by analyzing the vehicle characteristics and rate of correct installation from the volunteer tests. Based on the user trial data shown in Figure 1 below, UMTRI determined that a clearance angle greater than 54 degrees will increase the likelihood of correct CRS installation.

[23] ''Road vehicles—Methods and criteria for usability evaluation of child restraint systems and their interface with vehicle anchor systems—Part 1: Vehicles and child restraint systems equipped with ISOFIX anchors and attachments,'' (November 2010).

[24] The SAE draft recommended practice does not involve a rating system; therefore, UMTRI developed a grade based on how many of the ten guidelines were met.

[25] The 6.8 kg (15 lb) force application is the same as that in the SAE J2893 protocol.

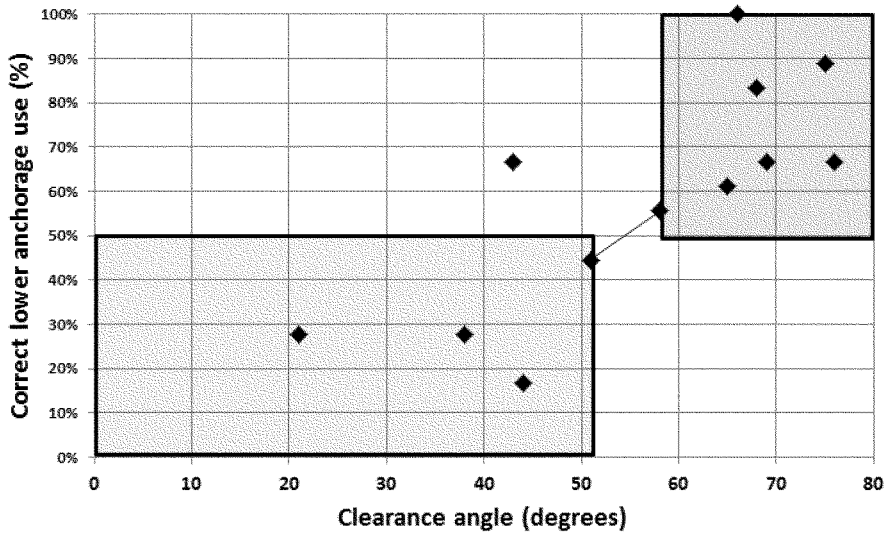

Figure 1 - Rate of correct lower anchorage use vs. clearance angle for each vehicle.

B. Attachment Force

Attachment force refers to the force needed to attach a child restraint's lower anchorage connector to a lower anchorage in a vehicle. UMTRI measured the force required to attach a CRS connector to a vehicle lower anchorage using a force gauge specified in SAE draft J2893. The tool is similar in shape and size to various CRS lower anchorage connectors in the market and to the connectors used on the Child Restraint Fixture and the Static Force Application Device 2 (SFAD2) of FMVSS No. 225. A force gauge in the tool measures the force required to fully engage the CRS connector to a lower anchorage in a vehicle. A stiff seat cushion and/or obstructions surrounding a lower anchorage may increase the attachment force.

Based on the data shown in Figure 2 below, UMTRI determined that an attachment force less than 178 N (40 lb) has a high likelihood of correct CRS installation.

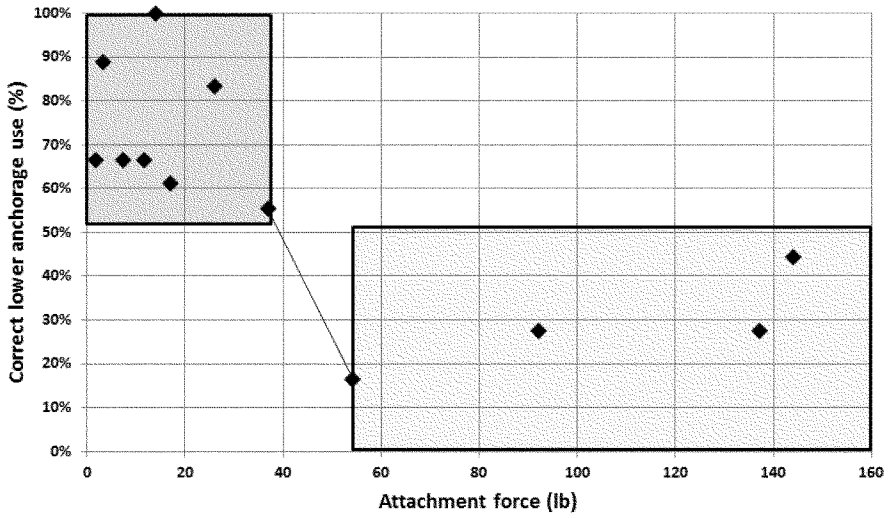

Figure 2 - Rate of correct lower anchorage use vs. attachment force for each vehicle.

C. Anchorage Depth

Anchorage depth refers to how deeply the lower anchorages are embedded in a vehicle seat (usually in the seat bight). UMTRI developed a simple tool that easily measures lower anchorage depth. The tool consists of a hook-type CRS connector which is marked every 2 cm.[26] Lower anchorages that are set deeper into the seat bight are more difficult to locate, identify, and use.

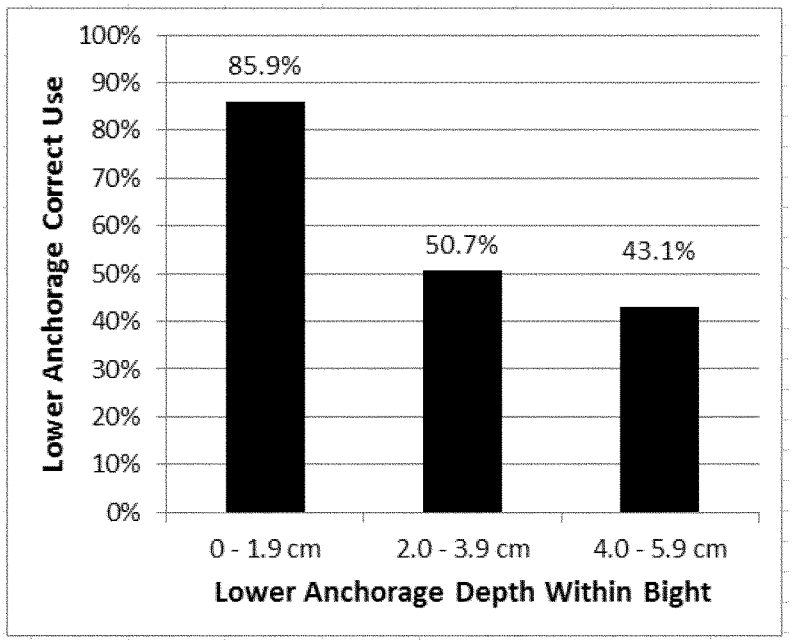

Figure 3 - Rate of correct lower anchorage use vs. lower anchorage depth within bight.

Based on the data shown in Figure 3 above, UMTRI determined that a lower anchorage depth less than 2 cm has a significantly higher rate of correct lower anchorage use than for anchorage depths greater than 2 cm.

UMTRI found that, while clearance angle, attachment force and anchorage depth are important, due to the correlation of the three factors it was not possible to truly identify their separate contributions to prediction of correct CRS installation. UMTRI believed that lower anchorage designs in vehicles should consider all three characteristics to improve rates of correct installation of child restraints.

IV. UMTRI's Assessment of the ISO, SAE, and NCAP Programs

As part of UMTRI's LATCH Usability study,[27] UMTRI evaluated vehicles using the draft ISO standard 29061–1:2010 and the derived SAE grade[28] and found no correlation between usability ratings and correct installation of child restraints in the vehicles in user trials. Results indicated that the ISO vehicle rating, the ISO vehicle/child restraint interaction rating and the derived SAE grade showed no correlation with rates of the volunteers' correct CRS installation using the lower anchorages (see Figure 4 below).

[26] UMTRI's tool was marked with different colored electrical tape at 2 cm intervals from the hook. When the tool was hooked onto the lower anchorage of the vehicle, the different colors of tape were exposed. For example, if the lower anchorage were exposed and not recessed in the seat bight at all, all colors in the hook were visible.

[27] LATCH Usability study, 2012, *supra*.

[28] SAE recommend practice is not a rating system; therefore, UMTRI developed a grade based on how many of the ten guidelines were met.

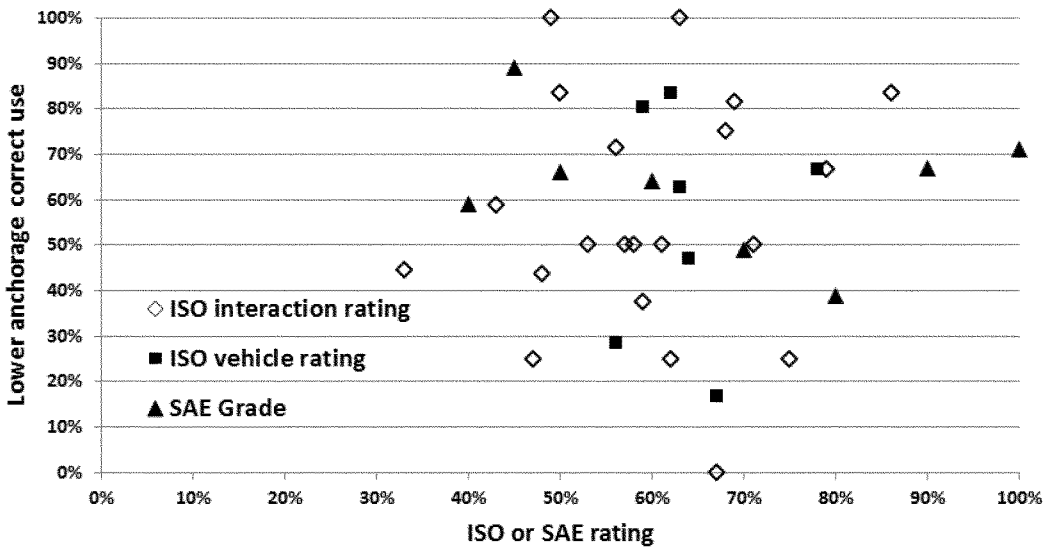

Figure 4 - Lower anchorage correct use vs. ISO and SAE rating.

UMTRI also evaluated [29] NHTSA's proposed Vehicle-CRS Fit program criteria using 12 vehicles and 7 child restraints. The user data showed that, among vehicle and child restraint combinations that would be considered compatible under the proposed criteria, only 16 percent were correctly installed by the volunteers.

V. NHTSA's Preference Is the UMTRI Approach

NHTSA has evaluated the draft ISO standard and the SAE draft recommended practice and concludes that neither approach would likely improve the usability of child restraint anchorage systems as effectively as the specifications proposed in today's NPRM. The ISO draft standard primarily rates vehicles and does not directly mandate improvements to the usability of child restraint anchorage systems. Further, as discussed above, UMTRI evaluated vehicles using the draft ISO standard 29061–1:2010 and found no correlation between usability ratings and correct installation of child restraints in the vehicles in user trials.

The draft SAE recommended practice J2893 would also be limited because it is only a guideline and does not mandate improved usability. In addition, as noted above, UMTRI evaluated the SAE derived grade from the 10 guidelines and found no correlation between the SAE derived grade and correct installation of child restraints in the vehicles in user trials.[30]

We believe that the amendments resulting from today's NPRM would be more effective in improving ease of use and the fit of child restraints in vehicles than NHTSA's proposed Vehicle-CRS fit program. The fit program only examines the fit of a small number of specific CRSs selected by the vehicle manufacturer for a specific vehicle model. Today's NPRM would ensure a more universal compatibility between vehicles and child restraints. The Vehicle-CRS fit program would be a voluntary program, so vehicle manufacturers have the option of not providing NHTSA any information about the fit of child restraints in their vehicles. In contrast, the changes resulting from this NPRM would be mandated and universal for all vehicles and all child restraints. The changes made to vehicle seats resulting from this rulemaking would make all child restraints easier to use and fit tightly on vehicle seats. In addition, UMTRI evaluated the NCAP Vehicle-CRS fit proposal and found that volunteers in user trials had a low rate of correctly installing CRSs even when the CRSs were ones meeting the NCAP program's ''fit'' criteria.[31]

VI. Proposal To Improve Lower Anchorage Usability

This NPRM proposes amendments to improve the three features of lower anchorages—clearance angle, attachment force, and anchorage depth—that were shown to have a positive impact on correct child restraint installations in user trials in UMTRI's LATCH Usability study. NHTSA has reviewed the UMTRI study and tentatively concludes that the features have been reasonably shown to have a significant bearing on correct installations. Also, lower anchorages meeting the proposed requirements for clearance angle, attachment force, and anchorage depth appear feasible.[32] The UMTRI procedures for measuring clearance angle and attachment force are similar to those in the draft SAE J2893 recommended practice which were developed with industry input and participation.[33] NHTSA has evaluated the procedures in 10 vehicles (MY 2005–2013) and they appear objective and repeatable. The agency made minor modifications to the measurement tools to enhance their ease of use and to further improve the repeatability of measurements.[34]

Comments to NHTSA's 2007 LATCH public meeting on child restraint anchorage system usability included many complaints about the difficulty of attaching lower anchorage connectors to lower anchorages because of interference from surrounding stiff cushions, fabric/leather or buckles. There were also observations about the difficulty of using the lower anchorages because they are often embedded in the

[29] Id.

[30] Id.

[31] Id.

[32] We are also proposing improved marking of child restraint anchorages and child restraint anchorage connectors to improve the ease of use of child restraint anchorage systems.

[33] We note that General Motors made the suggestion that NHTSA explore SAE's draft guidelines in its comments at the 2007 LATCH public meeting.

[34] NHTSA Technical Report, ''Evaluation of LATCH Usability Procedure,'' which is in the docket for this NPRM.

seat bight. It appears that the proposed changes would sufficiently address these problems.

We tentatively conclude that this NPRM would ultimately increase child safety. The NCRUSS [35] data show that a loose CRS installation comprises one of the five most significant mistakes consumers make in the field when installing child restraints. We wish to reduce loose CRS installations in the field since a loose installation could result in higher excursions of the child and CRS during a crash and a greater risk of injury due to the child's possible contact with vehicle interior structures, as compared to correct (tight) installations. We believe that if child restraint anchorage systems can be made easier to use correctly, then correct (tight) installations will increase.

a. Clearance Angle

Clearance angle relates to the clearance around a lower anchorage from interfering parts that can make it difficult to maneuver and attach a CRS lower anchorage connector. We believe that a clearance angle requirement would facilitate easier attachment of a CRS lower anchorage connector by preventing interference from surrounding components.

''Clearance angle'' is a criterion included in draft SAE J2893, and the tool we would use to measure the clearance angle was based on a tool developed by the SAE in draft J2893 (Version 1—Draft 7).[36] The tool, illustrated in Figure 5 below, includes a load cell with a handle to measure the applied vertical force on the tool and a potentiometer to measure the angle with respect to the horizontal achieved by the tool during the force application. In our proposed test procedure, the tool would be attached to a lower anchorage. A vertical force of 66.7 N (15 lb) is applied to the tool. The angle the tool achieves (with respect to the horizontal) when that force is applied is the ''clearance angle.'' We propose to amend FMVSS No. 225 to adopt a clearance angle requirement of not less than 54 degrees, as supported by the findings of the UMTRI LATCH Usability study. The requirement would apply to each lower anchorage in a vehicle.

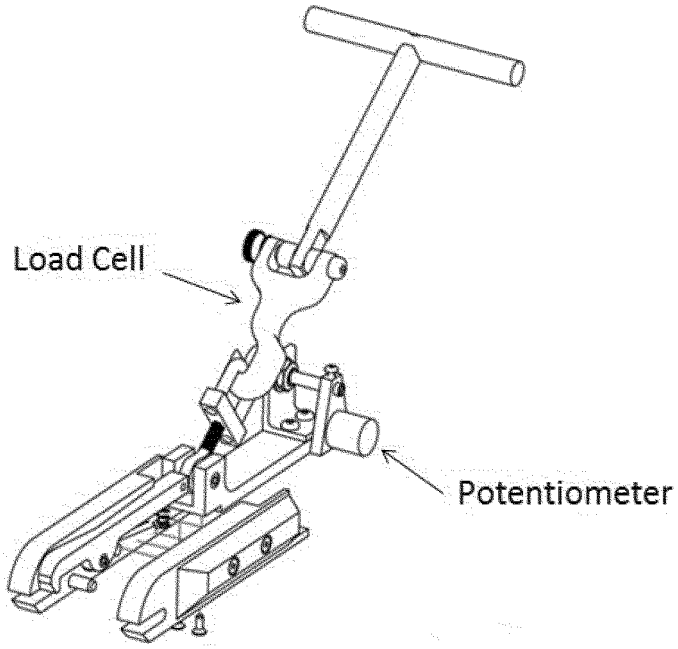

Figure 5. Clearance Angle Tool

We note that draft SAE J2893 specifies that the clearance angle should be greater than 75 degrees. We have differed from that draft specification because the UMTRI LATCH Usability study has user trial data to show that a clearance angle greater than 54 degrees is sufficient to increase the likelihood of correct CRS installation. We are not aware of similar user data to support the SAE target of 75 degrees.

Our proposed 66.7 N (15 lb) force application is the same as that in the draft SAE J2893 protocol. We believe that the force represents a low force that an adult can easily apply. A NHTSA study to determine the force that able-bodied adults could apply to open emergency exit windows found that this force ranged from 66.7 N (15 lb) to 533.7 N (120 lb) with a mean of 244.6 N (55 lb).[37]

b. Attachment Force

''Attachment force'' refers to the force needed to attach a child restraint lower anchorage connector to a lower anchorage. After considering the UMTRI LATCH Usability study, we propose to amend FMVSS No. 225 to require child restraint anchorage systems to be manufactured such that the attachment force needed to attach an attachment force tool to the lower anchorage must be less than 178 N (40 lb). UMTRI's

[35] National Child Restraint Use Special Study, *supra.*

[36] UMTRI used this measurement tool in its LATCH Usability Study and measured the applied vertical force and the resulting clearance angle using a force gauge and an inclinometer, respectively.

[37] Docket No. NHTSA–2007–28793–24.

volunteer subjects study indicates that an attachment force less than 178 N (40 lb) has a high likelihood of correct CRS installation.

The attachment force tool, illustrated in Figure 6 below, is based on the tool specified in SAE draft J2893 (Version 1 Draft 7) and which was used in the UMTRI LATCH Usability study. The end of the tool is similar in shape and size to various ''push-on'' CRS lower anchorage connectors in the market and to the connectors used on the SFAD2 of FMVSS No. 225. In order to improve the repeatability of the measurements obtained by the tool, the agency modified the tool used in the UMTRI LATCH Usability study as follows. A trigger switch was included to determine when the tool is fully engaged to a lower anchorage in a vehicle. A button load cell in a push handle was added to measure the force needed to fully engage the tool to the anchorage. Finally, a potentiometer was included to measure the approach angle of the tool with respect to the horizontal.

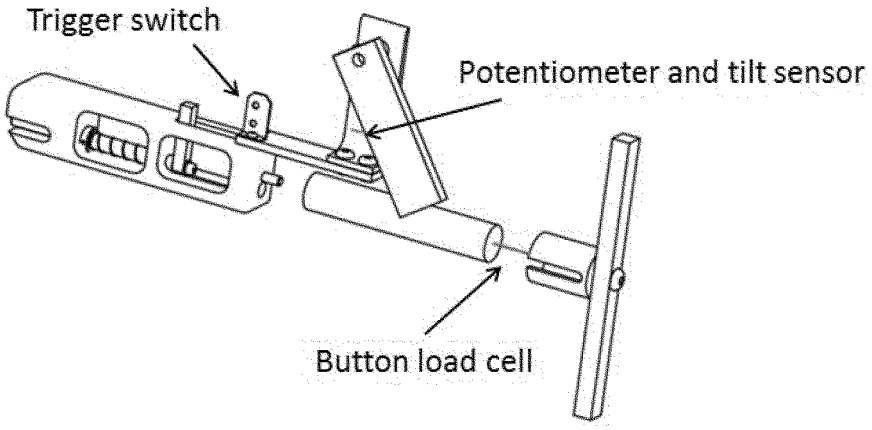

Figure 6. Attachment Force Tool

We note that draft SAE J2893 specifies that the attachment force should be less than 75 N (16.9 lb), which is more stringent than that proposed in this NPRM. We are proposing a 178 N (40 lb) limit because it is supported by the findings of UMTRI's LATCH Usability study showing the correlation of the limit with correct CRS installation. We are not aware of such data supporting the SAE limit under consideration.

There is also a slight difference between the draft SAE J2893 procedure and UMTRI's procedure regarding how the measurement is taken. The SAE draft procedure specifies that, when taking the measurement, the attachment force tool approaches the lower anchorage at an angle near zero degrees (*i.e.,* it is parallel to the seat bottom cushion surface). UMTRI found that it is not possible to attach the tool to the lower anchorages in most vehicles when it is held parallel to the seat bottom cushion. UMTRI modified the SAE protocol for measuring the attachment force such that the force is measured at the angle (from 0 to 45 degrees) to the horizontal producing the lowest force value. In addition to making it possible to attach the tool to the lower anchorages, UMTRI believed that the 0 to 45 degrees range of angles for attaching the measurement tool to the lower anchorages better represents how a parent would attach a CRS lower anchorage connector to the lower anchorages compared to the SAE method. NHTSA tentatively agrees with UMTRI's conclusions and has proposed the 0 to 45 degree range in this NPRM.

c. Anchorage Depth

Anchorage depth refers to how deeply the lower anchorages are embedded in the vehicle seat (usually in the seat bight or seat back). UMTRI's LATCH Usability study found that an anchorage depth of less than 2 cm within the seat bight is associated with a significantly higher rate of correct lower anchorage use than anchorage depths greater than or equal to 2 cm. NHTSA proposes a requirement that each lower anchorage must have an anchorage depth of less than 2 cm, as measured by a specially-designed compliance tool (the tool is illustrated in Figure 7, below). The tool incorporates a hook-type CRS connector. The distance 2 cm from the backside of a lower anchorage bar when the connector is attached to a lower anchorage is marked on the tool (as shown in Figure 8, below). In a compliance test, the tool would be attached to a lower anchorage. The 2 cm mark would have to be visible from a vertical longitudinal plane passing through the center of the bar, along a line making an upward 30 degree angle with a horizontal plane, without the technician's manipulating the seat cushions in any way.

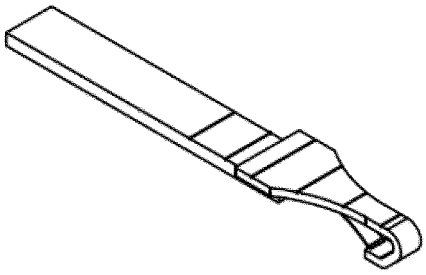

Figure 7. Anchorage Depth Tool

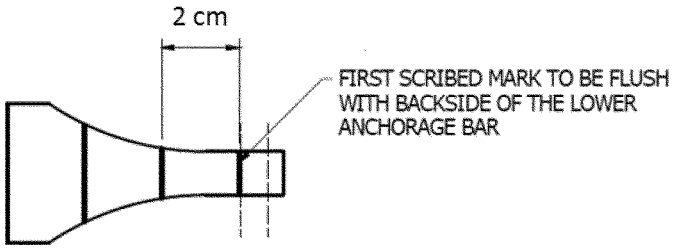

Figure 8. Depth Gauge Top View

We tentatively conclude that the proposed anchorage depth requirement would make the requirement in S9.2.2(a) of FMVSS No. 225 unnecessary, so we propose deleting S9.2.2(a). S9.2.2(a) specifies that the lower anchorages must be located less than 70 mm (2.75 in) behind the rearmost point at the bottom plane of the CRF while the CRF is pressed rearward against the seat back with a horizontal force of 100 N (22.4 lb). The purpose of S9.2.2(a) is to ensure that the lower anchorages are not deeply recessed into the seat bight. We tentatively conclude that the proposed requirement for anchorage depth takes the place of S9.2.2(a) by ensuring the lower anchorages are not deeply recessed. The proposed 2 cm (0.8 in) limit on anchorage depth would not permit lower anchorages to be as deeply recessed into the vehicle seat as permitted by S9.2.2(a). The UMTRI volunteer study showed that accessibility of the lower anchorages—and correct CRS installation—is better determined using anchorage depth than the current requirement in S9.2.2(a).

On the other hand, we have tentatively determined that S9.2.2(b) continues to be needed and should be retained even if a limit on anchorage depth is adopted. S9.2.2(b) specifies that the lower anchorages must be located more than 120 mm (4.7 in) behind the SgRP.[38] Its intent is to ensure that the lower anchorages are not so far forward so as to cause discomfort to occupants not in CRSs or pose an unreasonable risk of injury in rear impacts.

We believe the requirement in S9.2.2(b) does not conflict with the proposed anchorage depth requirement. UMTRI's survey of 98 MY 2010–2011 vehicles showed that the seat bight of the surveyed vehicles was at least 140 mm (1.5 in) from the estimated SgRP, as shown in Figure 9. (UMTRI's measurement referenced the H-point, which with regard to rear seats that do not move, is at the same location as the SgRP.) The proposed anchorage depth requirement specifies that the anchorage has to be less than 2 cm deep into the seat bight. Lower anchorages can be positioned less than 2 cm deep into the seat bight and still meet S9.2.2(b).

[38] SgRP (seating reference point) is the unique design H-point as defined in SAE Recommended Practice J1100, ''Motor Vehicle Dimensions,'' revised June1984.

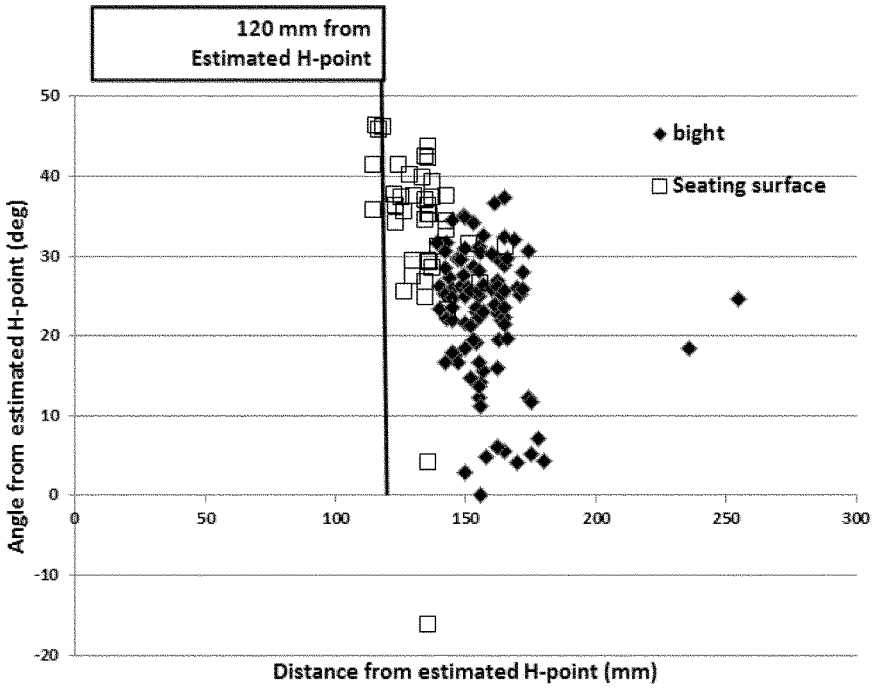

Figure 9. Distance between estimated H-point and seat bight.

d. Estimated Rate of Current Compliance

UMTRI's survey of 98 MY 2010–2011 vehicles [39] showed that 9 percent met none of the three provisions, 31 percent met one provision, 37 percent met two provisions, and 21 percent met all three provisions for lower anchorages. Ninety percent met the attachment force provision (<178 N (40 lb)), 58 percent met the clearance angle provision (>54 degrees) and 28 percent met the anchorage depth (<2 cm (0.8 in)) provision, as shown in Figure 10 below.

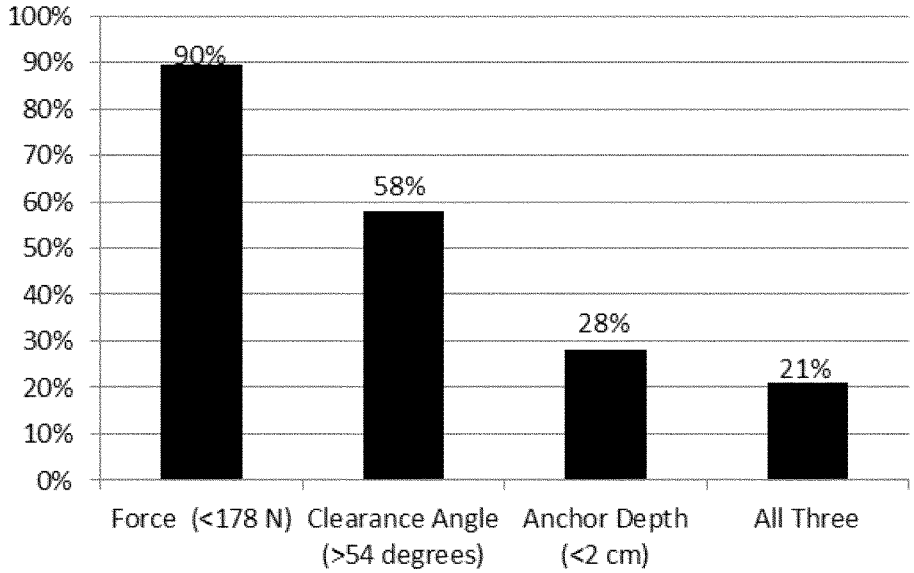

Figure 10. Percentage of vehicles meeting the proposed lower anchorage force, clearance angle and depth usability requirements.

Table 1, below, shows the percentages of vehicles within ranges of the proposed attachment force, clearance angle, and anchorage depth requirements.

[39] UMTRI LATCH Usability study, *supra.*

TABLE 1—PERCENTAGE OF VEHICLES (FROM UMTRI'S SURVEY OF 98 MY 2010–11 VEHICLES) VERSUS RANGE OF LOWER ANCHORAGE ATTACHMENT FORCE, CLEARANCE ANGLE AND DEPTH

Attachment force		Clearance angle		Anchorage depth	
<178N	89.5%	>54 degrees	58.0%	<1.9 cm	28.5%
178–311N	5.2%	44–54 degrees	23.6%	2–3.9cm	27.5%
312–645N	5.2%	35–43 degrees	10.7%	4–5.9 cm	40.8%
		20–34 degrees	7.5%	6–7.9 cm	3.0%

NHTSA's evaluation of 10 MY 2005–2013 vehicles [40] resulted in attachment force measurements at 27 lower anchorage positions, and clearance angle and lower anchorage depth measurements at 31 lower anchorage positions. The attachment force measurements were all well below 178 N (40 lb). Seventeen of 31 anchorage positions had clearance angles greater than 54 degrees, and 16 of the 31 anchorage positions had an anchorage depth less than 2 cm. Five vehicles met the proposed clearance angle criterion and 5 met the proposed anchorage depth criterion at all lower anchorage positions tested. Three of the 10 vehicles tested met all 3 proposed usability criteria for lower anchorages.

VII. Proposal To Improve Tether Anchorage Usability

FMVSS No. 225 specifies where tether anchorages may be located, but consumers are still having difficulty finding, identifying, accessing, and using the tether anchorages. Some tether anchorages have been located deep under the seat (the seat would have to be folded over to access the anchorage) or under a carpet. Some tether anchorages are located too close to the seat head restraint where there is not enough space for the CRS tether strap to be tightened. Some tether anchorage configurations are differently configured from those typically found in vehicles, *e.g.,* they consist of a webbing loop rather than a rigid bar. To improve the ease of use of tether anchorages, we propose the following requirements.[41]

a. Limit the Zone

FMVSS No. 225 specifies that tether anchorages must be located within the shaded zone shown in Figures 3 through 7 of FMVSS No. 225 for the designated seating position (DSP) for which the anchorage is installed. The allowable zone encompasses a wide area which has resulted in some tether anchorages being located where consumers have had difficulty accessing them, such as deep under the seat where folding the seat is required to reach/attach the tether anchorage. This place is the forward-most edge of the area under the vehicle seat defined by the intersection of the torso line reference plane (defined by the SAE J826 two-dimensional drafting template) and the floor pan.

We propose to amend Figures 3 through 7 of the standard to disallow tether anchorages from being placed deep under the seat. Specifically, the agency is proposing that the forward-most edge of the allowable tether anchorage zone represented by the shaded area in Figure 3 of FMVSS No. 225 be moved rearward to a position defined by the intersection of the vehicle floor with a plane that is parallel to the torso line reference plane and which passes through the rearmost point of the bottom of the seat at its centerline. We note that vehicles with tether anchorages located deep under the seat where the seat must be folded to reach the anchorages are no longer manufactured, so this change in requirements would have little or no impact on current vehicle designs. However, we tentatively believe the amendment is needed to prevent these designs from coming back into the fleet.

NHTSA evaluated vehicle fleet data to find where tether anchorages were typically located. We reviewed combined data from a NHTSA survey [42] of 24 MY 2010 vehicles and the UMTRI LATCH Usability study [43] of 98 MY 2010–2011 vehicles. The data indicate that the most common tether anchorage locations are the seat back (41 percent) and the package shelf (37 percent). Tether anchorage locations on the seat back are typical of MPVs and trucks, while the package shelf location is characteristic of passenger cars. Tether anchorages located on the back wall of the occupant compartment (8 percent) are seen only in pickup trucks. Less common tether anchorage locations are the roof (6 percent) (often found in SUVs, station wagons, and some center seats of passenger cars), the floor (4 percent) and under the seat [44] (3 percent).

In current vehicles, the tether anchorages located on the seat back and on the package shelf (the two most common locations) are mostly centered or slightly off-center from the DSP, as depicted in Figure 11 below. However, in vehicles with a cargo area or another seating row behind the seating position with the tether anchorage (such as station wagons and MPVs), and vehicles without a cargo area contiguous with the seating position (such as pickup trucks), the tether anchorage are often installed on the roof, floor, back wall or under the seat.

[40] NHTSA Technical Report, ''Evaluation of LATCH Usability Procedure,'' which is in the docket for this NPRM.

[41] Except for the element relating to set-back of the anchorage, UMTRI's LATCH Usability study did not address ease of use of tether anchorages.

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[42] Aram, M.L., Rockwell, T., ''Vehicle Rear Seat Study-Technical Report,'' NHTSA, 2012. A copy of the report is in the docket.

[43] *Supra.*

[44] These anchorages are accessible without folding the seat.

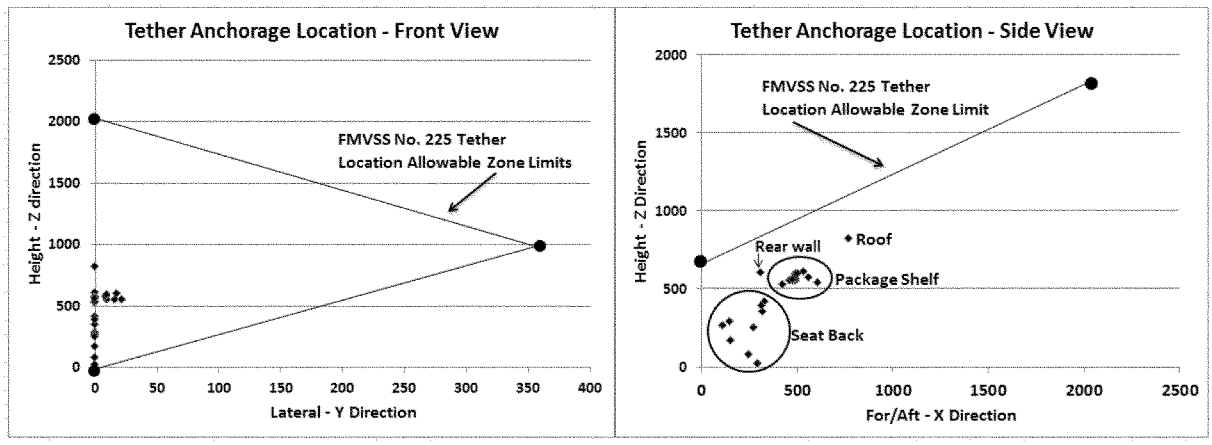

Figure 11. Location of tether anchorage in 23 vehicles.

We considered but decided against further limiting the zones in Figures 3 through 7 of FMVSS No. 225. We are mindful that, when determining tether anchorage locations, vehicle manufacturers must consider the strength of the structure to which the tether anchorage is affixed. They also have to consider the degree to which the tether anchorage—or the child restraint, when using the anchorage—interferes with ingress, egress, seating, and/or the comfort and safety of vehicle occupants. Due to these considerations, vehicle manufacturers sometimes install tether anchorages slightly off-center to a seating position, or on the roof, floor, or back wall. Thus, some flexibility is needed in locating the anchorages. Moreover, as explained below, those atypical locations do not appear to pose a safety problem.

We performed sled tests using different fore-aft and lateral tether anchorage locations and found no difference in CRS performance when the CRSs were tethered at different locations at extreme points within the allowable zone.[45] In the evaluation, we conducted a series of nine frontal impact sled tests using the FMVSS No. 213 test protocol to assess the effect of tether anchorage location on dummy kinematics and injury outcomes. One forward-facing child restraint was used with a Hybrid III 3-year-old (HIII–3C) dummy in each test configuration. The lower anchorages were spaced 280 mm (11 in) apart. The tether anchorage was positioned at various locations to replicate the vehicle seat back, roof, and package shelf above and behind the seat bight (see Table 2 below). At each of the tether anchorage configurations, the lateral position of the tether anchorage was also varied from the center to 150 mm (5.9 in) and 300 mm (11.8 in) to the right of center.

TABLE 2—TETHER ANCHORAGE LOCATIONS FROM SEAT BIGHT

[Tether anchorage locations from FMVSS No. 213 bench seat bight]

	Aft (cm)	Above (cm)
Package Shelf	650	585
Seat back	280	210
Roof	550	1070

The results showed that changing the tether anchorage location did not significantly affect the injury outcomes of the HIII–3C dummy in these tests. Overall, the head injury criterion (HIC) measured in a 36 millisecond timeframe (HIC36) ranged from 366 to 585 for the various tether anchorage locations and was significantly lower than the performance limit of 1000 (see Figure 12, below). For each of the various lateral positions of the tether anchorage on the seat back, the package shelf, and the roof, the dummy injury measures (HIC36, chest acceleration, and dummy excursions) were similar and significantly lower than the injury assessment reference values of FMVSS No. 213.

For illustration purposes, HIC36 was the only injury criterion used in the following graphs; however the full data (including chest accelerations and excursions) can be found in the docketed technical report.

[45] Amenson, T., Sullivan, L.K., ''Dynamic Evaluation of LATCH Lower Anchor Spacing Requirements and Effect of Tether Anchor Location on Tether and Lower Anchor Loads,'' NHTSA, 2013. A copy of the report is in the docket for this NPRM.

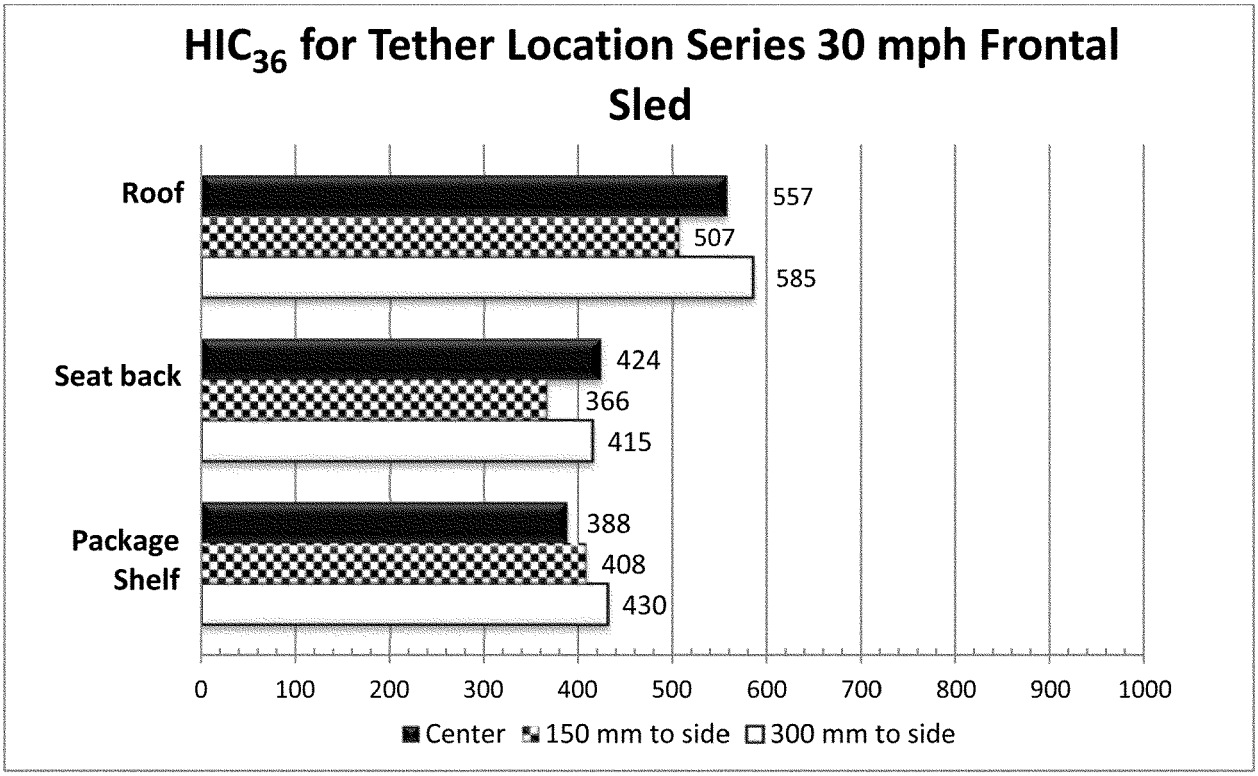

Figure 12. HIC36 measures from the HIII-3C dummy in FMVSS No. 213 sled tests with different tether anchorage locations.

The load distribution on the lower anchorages and tether anchorages vary depending on whether the tether anchorage is located on the package shelf, seat back, or roof, due to the length of the tether. However, varying the lateral location of the tether anchorage in each of these general locations (package shelf, seat back or roof), generated similar peak loads for the lower anchorages and tether anchorage despite the center or side locations of each tether anchorage site (see Figure 13, below).

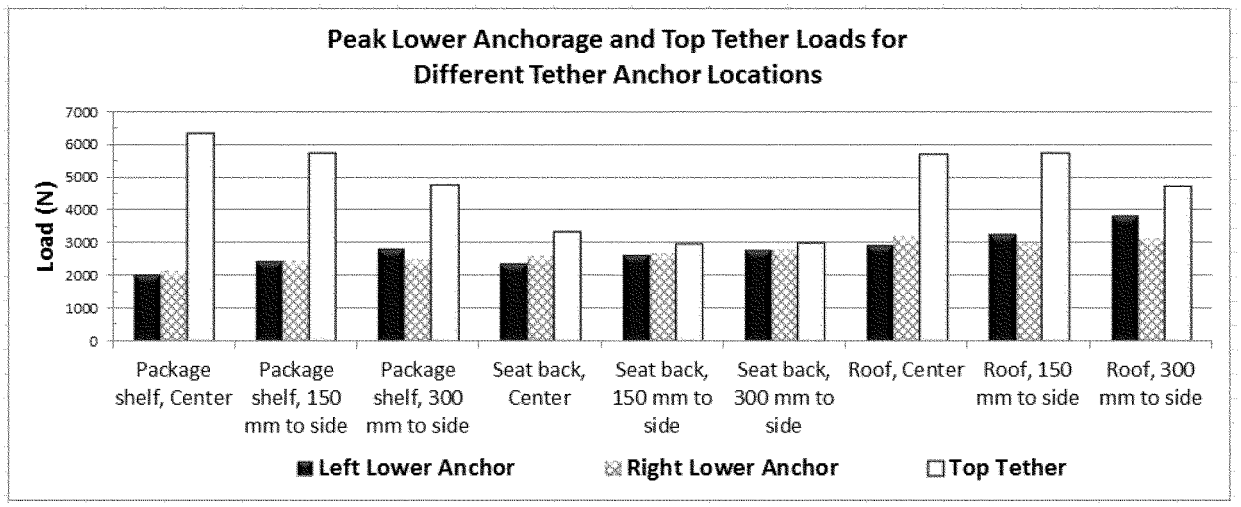

Figure 13. Lower anchorage and tether anchorage loads in tests conducted with the HIII-3C dummy in accordance with the FMVSS No. 213 protocol with different tether anchorage positions.

These results suggest that there is not an unreasonable safety risk posed by locating the tether anchorage at the lateral extreme points of the allowable zone. Thus, we tentatively conclude that retaining the zones depicted in Figures 3 to 7 of FMVSS No. 225, except to disallow the area under a vehicle seat, appropriately balances safety, ease of use, and design flexibility.

b. Anchorage Must Be Accessible

The agency proposes to require that a tether anchorage must be in a location where the anchorage is accessible without the need to remove carpet or other vehicle components to access the anchorages. However, a tether anchorage may be covered with a cap, flap or cover, provided that the cap, flap or cover is specifically designed to be opened, moved aside or otherwise provide access to the anchorage. It must also be labeled with the ISO symbol indicting the presence of the tether anchorage underneath. We also propose to require the anchorage to be accessible without the use of any tools, including the use of a screwdriver or coin.

c. Standardized Configuration

FMVSS No. 225 does not provide any material or dimensional requirements for tether anchorages, other than specifying that the tether anchorage must permit the attachment of a tether hook meeting the configuration and geometry specified in Figure 11 of Standard No. 213. Most vehicle manufacturers use a metal bar design for the tether anchorage. These metal bars vary in cross section shape; some are round and others are flat. However, a few pickup trucks and MPVs provide a webbing loop as the tether anchorage. The webbing loop is so different from the conventional metal bar design that consumers have difficulty identifying them as tether anchorages.[46] Also, in some cases, the webbing anchorages need to be retrieved from another component such as a foldable carpet flap that runs across the back seat. In certain cases, the carpet flap needs to be folded back to find the webbing tether anchorage and then the webbing needs to be pulled out with a pencil.

To increase the ease of use of tether anchorages, we propose amending FMVSS No. 225 to standardize the configuration of the tether anchorage such that it is a ''rigid bar of any cross section shape.'' One of the main objectives of this NPRM is to increase the standardization of child restraint anchorage system features, because we believe doing so increases consumers' familiarity with the anchorage systems and will increase the ease of using the systems, particularly when coupled with education efforts that provide a simple and uniform message. The webbing loop design differs considerably from the appearance of a typical tether anchorage. Even if consumers become more aware of the importance of tether use, they may still fail to use a tether anchorage because they do not recognize the webbing loop as a tether anchorage. Having a standardized design for the tether anchorages such that they can be described as a ''rigid bar'' would help consumers easily recognize the anchorages in their vehicles and facilitate simplified and more effective messages in educational materials.

The agency is seeking comment on whether further standardization of the tether anchorage should be pursued to make the tether anchorage a more recognizable vehicle feature. The agency has tentatively decided not to specify dimensions for the tether anchorage, to give manufacturers some design flexibility in meeting FMVSS No. 225's strength requirements. We request comment on the issue.

d. Clearance Around the Tether Anchorage

This NPRM proposes requirements to make it easier for a consumer to attach a child restraint tether hook to a tether anchorage and tighten the tether strap. We propose to amend FMVSS No. 225 to require a 165 mm (6.5 in) minimum distance from a tether anchorage to a reference point on the vehicle DSP for which the tether anchorage is installed.

FMVSS No. 225 specifies that tether anchorages must be located within the shaded zone shown in Figures 3 to 7 of the standard for the DSP for which the anchorage is installed. The standard specifies a reference point ''W'' that is 50 mm (1.9 in) below and 50 mm (1.9 in) rearward of the shoulder reference point (R-point),[47] and a reference point ''V'' that is 350 mm (13.7 in) vertically above and 175 mm (6.8 in) horizontally back from the H-point. The standard also specifies a strap wrap-around length of 200 mm (7.8 in) from the W-point and a strap wrap-around length of 250 mm (9.8 in) from the V-point (see Figure 4 of FMVSS No. 225). Tether anchorages may be located only within the zone that is generated using both reference points and their associated strap wrap-around lengths to ensure there is sufficient distance for a tether strap and hook to be attached to the anchorage.

The UMTRI LATCH Usability study[48] found that under current FMVSS No. 225, tether anchorages can be located too close to the head restraint, top of the seat back, or the tether attachment point on a CRS, resulting in insufficient clearance space to tighten the CRS tether strap. UMTRI reviewed the ''tether hardware assembly,'' which consists of the tether hook and hardware to tighten and loosen the tether strap, on 21 child restraints made by 11 different CRS manufacturers and found the tether hardware assembly to range from 102 to 184 mm (4 to 7.2 in) in length, with 15 CRSs having tether hardware assembly lengths between 140 mm (5.5 in) and 165 mm (6.5 in). UMTRI suggests that having tether anchorages on a package shelf or behind the seat back at a distance of at least 165 mm (6.5 in) rearward or below the back of the head restraint or top of the seat back (if no head restraint is present) would provide better clearance for attaching the tether hook of a CRS and tightening the strap.

We have reviewed the UMTRI LATCH Usability study and tentatively agree that specifying a minimum 165 mm (6.5 in) distance from the tether anchorage to a reference point on the vehicle seat would improve the ease of use of tether anchorages. The clearance would allow tightening of tether straps in most vehicles without experiencing interference from other structures, such as the head restraint. The reference point on the vehicle seat, which we have designated ''SB,'' would be defined as the intersection of the plane parallel to the torso line reference plane (defined in Figure 3 of FMVSS No. 225) that passes through the rearmost point of the seat and the wrap-around line[49] from the ''V-point'' to the tether anchorage. The rearmost point of the seat includes the head restraint, if one is present. The V-point represents a low-mounted tether strap on a CRS and the W-point represents a high-mounted tether strap on a CRS. The agency believes both the V- and W-point could have been used for determining the vehicle seat reference point, SB, but we selected the V-point to define the reference point because it would encompass both low-mounted and high-mounted tether straps.

To improve compatibility between vehicles and CRSs, we also propose to amend FMVSS No. 213 to require that the tether hardware assembly (consisting of the tether hook and

[46] This issue was brought to NHTSA's attention by child passenger safety technicians who perform child restraint system checks across the country and teach/assist parents in installing CRSs properly.

[47] R-point as defined in SAE J787b.

[48] *Supra.*

[49] Strap wrap-around line is the nonlinear path traversed by a string connecting two points.

hardware to tighten and loosen the tether strap) must be no longer than 165 mm (6.5 in). We propose this limit so that all CRS tether straps will be able to be tightened given the minimum tether anchorage distance from the SB reference point.

The UMTRI LATCH Usability study found that the length of the tether hardware assembly of the 21 child restraints it reviewed ranged from 102 to 184 mm (4 to 7.2 in). UMTRI estimated that about 30 percent of CRS models might need tether hardware assembly changes to meet the 165 mm (6.5 in) limit. We do not believe limiting the length of the tether hardware assembly would be overly burdensome for CRS manufacturers, since the assembly appears to consist of simple parts. Comments are requested on this issue.

VIII. Conspicuity and Identification of Anchorages

To improve the ease with which consumers find lower anchorages and tether anchorages in the vehicle, we propose amending FMVSS No. 225 to improve conspicuity and identification of the anchorages. (In the next section, we propose complementary requirements amending FMVSS No. 213 to improve conspicuity and identification of the CRS connectors.)

a. Marking Lower Anchorages

FMVSS No. 225 (S9.5) currently requires lower anchorage bars to be visible, or the vehicle seat marked, to alert the consumer to the presence of the anchorages and to assist consumers in locating the lower anchorages. If the vehicle seat is marked, the current marking requirement is for a circle not less than 13 mm (0.51 in) in diameter, located within a specified distance from the horizontal centerline of each lower anchorage. The circle may be either solid or open, and may be with or without words, symbols or pictograms, but if a word, symbol or pictogram is used, its meaning must be explained in the vehicle's owner's manual.

Decina's 2005 survey [50] indicated that many consumers do not recognize that the lower anchorage bars are for installing child restraints or do not know that the marks indicate the presence of the lower anchorages. The survey showed that 55 percent of consumers who did not use lower anchorages to install a CRS, cited their lack of knowledge—not knowing what the anchorages were, that they were available in the vehicle, the importance of using them, or how to properly use them—as the reason for not using them.

Since currently not all lower anchorages are required to have markings, and since the marks, when provided, often differ in appearance from one vehicle model to another, current education campaigns rely on the vehicle's written instructions (typically the owner's manual) to inform the consumer of the anchorage locations. This is likely one reason for the consumers' lack of knowledge regarding the location of the lower and tether anchorages, since consumers' use of the owner's manual is low.

We propose to amend FMVSS No. 225 to require all vehicles to bear a standardized mark, developed by ISO as a voluntary standard,[51] at the location of each lower anchorage bar, regardless of whether the anchorage bar is visible. The mark shows where the bar is located and identifies the bar as a lower anchorage. The mark must be a circle not less than 13 mm (0.51 in) in diameter located as specified in S9.5(a)(3) of FMVSS No. 225. The mark is shown below in Figure 14. We also propose to require manufacturers to include an explanation of the meaning of the lower anchorages markings in written information (*e.g.,* in the vehicle owner's manual, if one is provided).

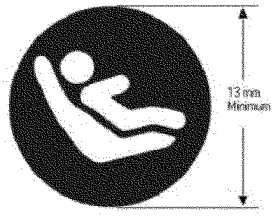

Figure 14: Proposed mark for lower anchorages

The symbol may be shown in mirror image, and the color of the symbol is at the option of the manufacturer. The symbol may be embossed.

A number of commenters to the 2007 LATCH public meeting believed that the conspicuity and identification of child restraint anchorages should be improved. They suggested adopting the ISO symbol to mark all child restraint anchorage systems in order to standardize the markings and help the caregiver identify the anchorages.[52]

We tentatively agree that adopting a standardized symbol would help. Requiring marks for all lower anchorages (regardless of whether the anchorages are visible) would improve conspicuity and identification of the anchorages. In addition, standardized anchorage marks would help in the development of a consistent and simple education message to improve awareness of child restraint anchorage systems and correct identification of the anchorages. Having the standardized markings may help the ISO symbols become a recognizable icon to consumers and may help simplify consumer information. A simplified message using the consistent marks could increase use of child restraint anchorage systems and child restraints generally, reduce installation errors, and ultimately reduce risk of injuries and fatalities.

The ISO mark has already been adopted by a majority of vehicle manufacturers. NHTSA surveyed 24 MY 2010 vehicles [53] to gather data on rear seat characteristics, and included data on the vehicles' child restraint anchorage systems, such as the locations of the systems, how they were configured, and manufacturers'

[50] ''Child Restraint Use Survey: LATCH Use and Misuse,'' *supra.*

[51] ISO 13216–1:1999 ''Road vehicles—Anchorages in vehicles and attachments to anchorages for child restraint systems.''

[52] *E.g.,* in comments to the 2007 LATCH Public Meeting, GM raised the merits of an industry agreement to label all tether anchorages with an anchorage symbol and all lower anchorages with an ISO lower anchorage symbol.

[53] Aram, M.L., Rockwell, T., ''Vehicle Rear Seat Study-Technical Report,'' NHTSA, 2012, which is in the docket for this NPRM.

recommendations for using the systems. Data on vehicles' child restraint anchorage systems in 98 top-selling MY 2010–2011 vehicles is also available from the UMTRI LATCH Usability study.[54]

NHTSA analyzed the data from the agency's survey and from the UMTRI LATCH Usability study to learn how vehicle manufacturers design and mark the lower anchorages in current vehicles. The combined survey data of 122 vehicles showed that 34 percent of the vehicles had visible lower anchorages, 17 percent had lower anchorages with some cover (slits, doors or flaps), and all other vehicles had anchorages embedded in the seat bight). Also, 18 percent of the surveyed vehicles had no marks on the lower anchorages because the anchorages were visible, 76 percent were marked with the ISO symbol, and 6 percent were marked but without the ISO symbol.

b. Marking Tether Anchorages

FMVSS No. 225 currently does not require tether anchorages to be marked with any symbol identifying them as such. We propose amending FMVSS No. 225 to require the vehicle to bear a standardized mark, also developed by ISO,[55] at the location of each tether anchorage. The purpose of the marking requirement would be to increase consumer awareness of the existence of tether anchorages and to facilitate consumer education efforts. The mark shows the location of the tether anchorage and identifies the anchorage. Either of two ISO labeling symbols may be used (see Figure 15, below). Canada Motor Vehicle Safety Standard (CMVSS) No. 210.1, ''User-friendly tether anchorages for restraint systems,'' already requires vehicles to be labeled with one of the ISO tether labeling symbols. We propose to require the tether anchorage mark to be not less than 20 mm (0.8) in height.[56]

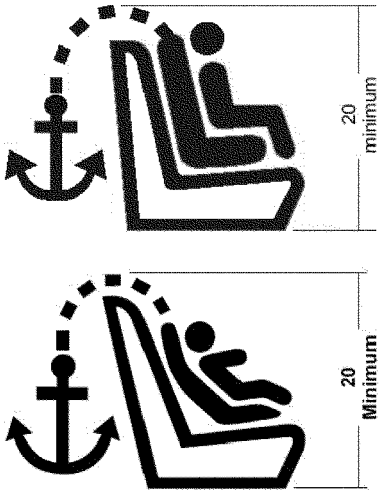

Figure 15: Proposed Marks for Tether Anchorage

The symbol may be shown in mirror image, and the coloring of the symbol is at the option of the manufacturer. The symbol may be embossed.

We propose that each tether anchorage would be marked, even if it is plainly visible. The mark would have to be centered at the middle of the tether anchorage bar. The shortest distance from the nearest edge of the mark to the center of the tether anchorage bar must be not more than 25 mm (1 in). There are no specifications for the distance of the marks from the tether anchorage in the ISO standard or in the CMVSS, but we tentatively conclude that specifying a maximum spacing to the mark is necessary to reduce confusion in identifying and locating the anchorages (discussed further below). We also propose to require manufacturers to include an explanation of the meaning of the tether anchorage markings in written information (*e.g.,* in the vehicle owner's manual, if one is provided).

We propose to permit a tether anchorage to be covered with a cap, flap or cover, but the cap, flap or cover must be specifically designed to give access to the tether anchorage. We would not permit an ordinary floor mat to cover a tether anchorage; to be permitted, the floor mat would need to be specifically designed to give access to the tether anchorage, such as by having a flap that must be moved aside to access the anchorage. Moreover, if a cap, flap or cover is covering a tether anchorage, and the cap, flap or cover is permanently attached to the vehicle, the cap, flap or cover must be marked with the centered ISO symbol to inform consumers of the presence of the tether anchorage under it. If the cap, flap or cover is not permanently attached to the vehicle, the cap, flap or cover must be marked and the tether anchorage must also be separately marked, to make sure the anchorage would be marked in case the unattached cap, flap or cover is lost.

We believe that alignment and proximity requirements are needed because some vehicles such as SUVs and station wagons have tether anchorages located in the seat back or the floor of the vehicle, along with other cargo anchorages or similar hardware. One common CRS installation error consumers commit is attaching a CRS tether hook to other cargo anchorages or hardware not designed for a tether. Since tether anchorages are not always marked with the ISO symbol or some other label identifying them as CRS tether anchorages, it is difficult for some consumers to distinguish which is the

[54] ''LATCH Usability in Vehicles,'' *supra.*

[55] ISO 13216–1:1999 ''Road vehicles—Anchorages in vehicles and attachments to anchorages for child restraint systems.'' The ISO standard specifies that the tether anchorage symbol has to appear on a cover, if a cover is used to hide the tether anchorage.

[56] This is the same dimensions for the tether anchorage markings specified in CMVSS No. 210.1.

tether anchorage. To illustrate, the MY 2012 Chevrolet Avalanche has a labeled tether anchorage, yet it is still difficult to see which structure is the tether anchorage because the symbol is on a plastic surface located laterally from the tether anchorage, and the tether anchorage is not distinguishable from other metal structures near it. To improve the ease of use of tether anchorages, we are specifying the alignment and proximity of the ISO symbol with tether anchorages so that the symbol can be easily associated with the anchorages.

NHTSA's analysis of the data from the agency and UMTRI surveys of 122 vehicles indicates that 41 percent of the vehicles had tether anchorages with no cover and 73 percent of the tether anchorages were marked with an ISO tether symbol.

IX. Conspicuity and Identification of CRS Connectors

As suggested by some commenters in response to the 2007 LATCH public meeting, the agency is also proposing to require the same ISO marks on CRS lower anchorage connectors and on tether hooks as we have proposed for the vehicle components. The required marks would be in a smaller minimum size compared to the vehicle markings. We propose that the symbol may be shown in mirror image, and the color of the symbol may be at the option of the manufacturer. The symbol may be embossed.

a. Lower Anchorage Connectors

We propose to amend FMVSS No. 213 to require an ISO mark on the lower anchorage connectors. The mark would be the same standardized symbol used on the vehicle's lower anchorages (see Figure 16). We tentatively believe that requiring CRS lower anchorage connectors to be marked with the same standardized symbol as the vehicle's lower anchorages would make consumers more aware of the existence of child restraint anchorage systems. Further, it would also facilitate consumer education efforts by simplifying education messages. Consumers could be simply told to match the marks on the lower anchorage connectors to the lower anchorage marks on the vehicle.

We are proposing that the ISO mark for the CRS lower anchorage connectors shall be at least 9 mm (0.35 in) in diameter. We propose a smaller minimum size of the mark for this mark compared to the size of the ISO mark for the vehicle lower anchorages (13 mm (.51 in)) to accommodate the smaller space available on the lower anchorage connectors for the mark. We also propose to require CRS manufacturers to include an explanation of the meaning of the lower anchorage connector markings in the CRS user's manual.

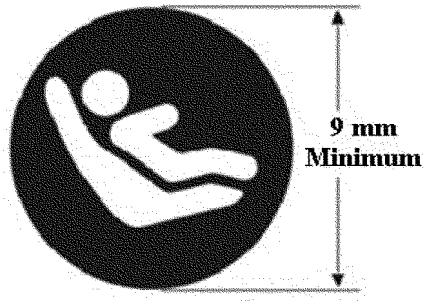

Figure 16: Proposed Mark for CRS Lower Anchorage Connectors

b. Tether Hook

We propose to amend FMVSS No. 213 to require one of the two ISO tether anchorage marks on the tether hook or the tether strap of a CRS. If the mark is on the tether strap or a tag attached to the strap, the mark must be located within one inch of the tether hardware assembly (tether hook and adjustment hardware). The two tether anchorage mark options are shown below in Figure 17. Child restraint manufacturers would have the option of using either mark. We are proposing that the ISO mark must be at least 8 mm (0.35 in) in diameter. We propose a smaller minimum size for this mark compared to the size of the ISO mark for the vehicle tether anchorage (20 mm) to accommodate the smaller space available on the tether hook and the tether strap for the mark. We also propose to require CRS manufacturers to include an explanation of the meaning of the markings in the CRS user's manual.

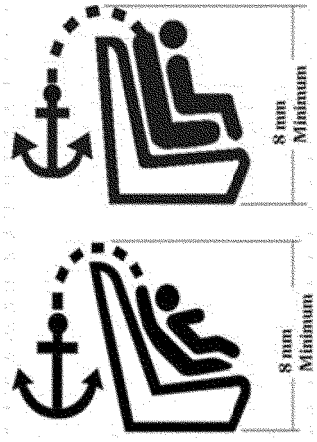

Figure 17: Proposed Mark for CRS Tether Hook

We tentatively believe that requiring a CRS tether hook or tether strap be marked with the same standardized symbol as the vehicle's tether anchorage would make consumer education more effective. It would simplify education messages to be able to tell consumers to match the mark on a CRS tether hook or strap to a tether anchorage mark in the vehicle.

X. Request for Comments

a. Center Rear Seat

FMVSS No. 225 (S4.4) requires vehicles with three or more forward-facing rear DSPs to have a child restraint anchorage system at not fewer than two rear DSPs.[57] Vehicles with three or more forward-facing rear DSPs are required to have a tether anchorage at a third forward-facing DSP. At least one tether anchorage must be in a forward-facing rear DSP other than an outboard DSP (*i.e.,* a center seat). NHTSA recognized in the March 5, 1999 final rule [58] that vehicle manufacturers would probably install the lower anchorages in the two outboard seating positions because two child restraint anchorage systems were unlikely to fit side-by-side in the rear seat. The requirement for a third tether anchorage at a center seat provides consumers the option of installing child restraints in a center DSP, where there is the vehicle's belt system and a tether anchorage.

Information from the NHTSA rear seat survey [59] of 24 MY 2010 vehicles and the UMTRI survey [60] of 98 MY 2010–2011 vehicles shows that vehicle manufacturers have mostly opted to install the two required child restraint anchorage systems in the two outboard positions of the second row and only equip the center seat, if available, with a tether anchorage. A review of the combined data from the NHTSA rear seat survey and the UMTRI survey found that of vehicles with a rear center DSP, none offered two dedicated lower anchorages in the center position.

Since the issuance of the final rule, many consumers have expressed a desire to use the rear center seating location to install a CRS using the lower anchorages. NHTSA requests comment on possible ways to address this. The Safe Kids survey [61] indicated that about a third of children in CRSs with internal harnesses (these CRSs are designed to be attached to the vehicle seat by the child restraint anchorage system or the seat belt) are installed in the rear center seat.

One approach would be to require a set of lower anchorages in the rear center seating position, instead of one or both of the child restraint anchorage systems available at the outboard positions in most current vehicle models. We request comment on the feasibility of installing a child restraint anchorage system in a rear center seating position and on whether we should require such installation. We believe there are potential limitations to the center seat, such as space, hardware and other features that could impede accommodating a set of lower anchorages in the center seat, especially if there were a set of lower anchorages in the outboard seating position(s).

In addition, we believe it is more desirable to have two usable child restraint anchorage systems available to consumers in the rear seat (in the outboard positions) rather than only one in the center. NCRUSS [62] data showed that of the 4,132 vehicles with children 9 years old or younger in the second row, 329 vehicles (8 percent) had two children in child restraints with internal harnesses in the second row: 293 vehicles (7 percent) had the two children in the outboard seating positions and 36 vehicles (0.9 percent) had the two children in adjacent seating positions, (one in an outboard seating position and one in the center seating position). Twenty vehicles (0.5 percent) of the 4,132 vehicles had the three children seated in a CRS in the second row: 8 vehicles (0.2 percent) had three children in child restraints with internal harnesses, 1 vehicle (0.025 percent) had 2 child restraints with internal harnesses and a booster seat and 11 vehicles (0.26 percent) had 2 booster seats and 1 child restraint with an internal harness.

A second approach would be to require a third set of dedicated lower anchorages in the rear center seat. Although as with the previous approach we generally believe insufficient space and potential interference with hardware and other features could impede the installation of dedicated set of lower anchorages for the center seating position in all vehicles, UMTRI studied the feasibility of lower

[57] We did not require child restraint anchorage systems in all three rear seating positions because demographics data did not show that there were a significant number of families with three or more children in child restraint systems. NHTSA also sought to minimize the cost of the rule to the extent reasonable.

[58] 64 FR 10803, March 5, 1999, FMVS No. 225 final rule.

[59] Aram, M.L., Rockwell, T. ''Vehicle Rear Seat Study-Technical Report,'' NHTSA, 2012, which is in the docket for this NPRM.

[60] LATCH Usability study, supra.

[61] A Look Inside American Family Vehicles: National Study of 79,000 car seats, 2009–2010. Safe Kids USA. September 2011.

[62] National Child Restraint Use Special Study, DOT HS 811 679, *http://www-nrd.nhtsa.dot.gov/Pubs/811679.pdf* (full report pending).

anchorages in the rear center seat [63] for 85 MY 2010–2011 vehicles. UMTRI determined that vehicles with 710 mm (27.9 in) or more distance between the centerlines of outboard lower anchorages behind the driver and front passenger seats would have sufficient space to provide three sets of usable dedicated lower anchorages in the right, center, and left seating positions in the rear row. Based on this finding, UMTRI noted that 47 of the 85 vehicles surveyed (56 percent) could include a dedicated center lower anchorage position in addition to the two outboard anchorage positions without seat belt interference.

We request comment on the feasibility of installing a dedicated child restraint anchorage system in the rear center seating position in addition to the two anchorage system in the outboard seating positions in vehicles with 710 mm (27.9 in) or more distance between the centerlines of outboard lower anchorages. We request comment on the merits of requiring such installation.

A third approach would be based on ''simulated'' child restraint anchorage systems. A ''simulated'' child restraint anchorage system in the rear center seating position consists of the inboard lower anchorages of the child restraint anchorage systems in the two outboard seating positions and the tether anchorage in the center seat. The agency's rear seat study [64] further found that of vehicles that had a rear center DSP (19 out of 24), 15.8 percent had instructions that permitted using a simulated child restraint anchorage system in the rear center seating position. Child passenger safety technicians (CPSTs) [65] recommend using a ''simulated'' child restraint anchorage system only if both the manufacturer of the child restraint and the manufacturer of the vehicle endorse using a simulated system. We are interested in learning more about how widely CRS manufacturers and vehicle manufacturers endorse use of simulated child restraint anchorage systems. We request comment on whether we should encourage, or possibly require, CRS manufacturers and vehicle manufacturers to include statements in the owner's instructions endorsing the use of simulated child restraint anchorage systems in rear center seating positions.

An issue arising with simulated child restraint anchorage systems relates to the spacing of the lower anchorages. FMVSS No. 225 requires the lower anchorages to be spaced 280 mm (11 in) apart, measured as the center-to-center distance of the lower anchorage bars. The distance between the lower anchorages is important to maintain uniformity with the spacing of rigid lower anchorage connectors on child restraints,[66] and to standardize the configuration of the lower anchorages to increase the likelihood that consumers will attach a CRS to a child restraint anchorage system and not to a part of a vehicle seat that was not intended for anchoring a child restraint. If a vehicle has the two requisite child restraint anchorage systems with the lower anchorages spaced 280 mm (11 in) apart in the outboard DSPs, the agency questions whether the simulated child restraint anchorage system could have the lower anchorages spaced more than 280 mm (11 in) apart?

We tentatively conclude that the answer is yes. This is because virtually all CRS designs in the U.S. use flexible lower anchorage connectors (as opposed to rigid), which are uniquely capable of being installed using a ''simulated'' child restraint anchorage system with varying spacing widths. A vehicle's lower anchorages would also be labeled, which would reduce the chances of the consumer attaching the child restraint lower anchorage connectors to the wrong part. Moreover, as discussed below, test data so far indicate that simulated child restraint anchorage systems perform satisfactorily from a crashworthiness point of view.

NHTSA's rear seat survey showed that the spacing of the inboard anchorages of the outboard seating positions varied from 270 to 675 mm (10.6 to 26.5 in). These included all vehicles regardless of whether a simulated child restraint anchorage system was recommended. Ford Motor Company (Ford) has endorsed in its manuals the use of simulated child restraint anchorage systems in Ford vehicles (*e.g.,* Focus, Fusion) that have lower anchorages spaced less than 500 mm (19.6 in) apart, although the consumer is instructed to also obtain approval from the child restraint manufacturer before using a simulated child restraint anchorage system. We understand that Ford makes this recommendation based on independent tests demonstrating that distances greater than 280 mm (11 in) between lower anchorages would not have adverse effects on child passenger safety.

UMTRI data also indicate that simulated child restraint anchorage systems perform satisfactorily. UMTRI conducted tests to quantify the effect of lower anchorage spacing on CRS performance. UMTRI performed a total of 15 sled tests using lower anchorage spacing of 280, 500 and 550 mm (11, 19.6 and 21.6 in) with five unspecified models of CRSs using the FMVSS No. 213 standard bench seat and test protocol. No installation issues, structural failures, or unusual dummy kinematics were observed. Wider spacing between lower anchorages (550 mm (21.6 in) compared to 280 mm (11 in)) only caused a lower anchorage peak load increase of 3–14 percent. No consistent trends or significant changes were found in seat back rotation (of rear-facing seats), peak head excursion, peak knee excursion, HIC, or chest acceleration.

NHTSA's testing also found satisfactory performance when using lower anchorages spaced greater than 280 mm (11 in). A series of six frontal impact sled tests were conducted based on the FMVSS No. 213 dynamic test procedure. Six side impact sled tests were also conducted by rotating the FMVSS No. 213 seat fixture 90 degrees to the direction of impact and using the half-sine pulse and velocity that was used in NHTSA's development of a proposed side impact test procedure.[67] In the frontal impact sled tests, an all-in-one child restraint (Alpha Omega Elite) was tested in its forward-facing mode with a HIII–3C dummy, and an infant carrier (Evenflo Discovery 5) was tested in the rear-facing mode with a 12-month-old CRABI dummy. In the side impact sled tests, the same all-in-one restraint was tested in its forward-facing mode with a Q-series 3-year-old child (Q3s) dummy and a different infant carrier (Graco Infant Safe Seat Step 1) was tested in the rear-facing mode with a 12-month-old CRABI dummy. Three tests of each CRS model were performed varying the lower anchorage spacing at 280, 400 and 520 mm (11, 15.7, 20.4 in).[68] Similar to other studies, the

[63] Klinich, K.D., Manary, M.A., Orton, N.R. ''Feasibility of Center LATCH.'' This report is in the docket for this NPRM.

[64] Aram, M.L., Rockwell, T. ''Vehicle Rear Seat Study-Technical Report,'' NHTSA, 2012, which is in the docket for this NPRM.

[65] CPSTs are trained in a program conducted by Safe Kids Worldwide to conduct child safety seat checks across the country and provide parents and caregivers hands-on assistance with proper use of child restraint systems and seat belts.

[66] Rigid lower anchorage connectors are prevalent in Europe. Although they are not prevalent now in the U.S., they are permitted by FMVSS No. 213. ISO 13216 Road vehicles—Anchorages in vehicles and attachments to anchorages for child restraint systems. *http://www.iso.org/iso/home.htm.*

[67] See NPRM proposing to add a side impact test to FMVSS No. 213, 79 FR 4570, January 28, 2014.

[68] The NHTSA rear seat study showed that all the vehicles except the Toyota Tundra had lower anchorage spacing less than 520 mm (20.4 in). The lower anchorages on the Toyota Tundra Crew and Extended Cab models were spaced greater than 580 mm (22.8 in) apart. The Tundra owner's manual

Continued

results showed that increasing the lower anchorage spacing did not affect the injury measures of the dummies used in the frontal and side impact sled tests. The HIC values and head and chest accelerations were all within acceptable limits for the 3-year-old and 12-month old child dummies in 20 mph (32 km/h) side impacts and 30 mph (48 km/h) frontal impacts.

Given that there appears to be a lower need for the lower anchorages to be 280 mm (11 in) apart in a simulated child restraint anchorage system than in the required child restraint anchorage systems, and given that simulated systems appear to be performing satisfactorily in dynamic testing, should we encourage or require CRS manufacturers and vehicle manufacturers to include, in instruction manuals, statements that endorse the use of simulated child restraint anchorage systems in rear center seating positions? An advantage of CRS and vehicle manufacturers endorsing simulated child restraint anchorage systems is to provide consumers the option of installing a CRS in the center rear seat with the lower anchorages plus tether at no cost.

In examining this question, another issue to consider is whether the strength of the lower anchorages of the simulated system needs to be tested as a unit to FMVSS No. 225's strength requirements (S9.4). We tentatively conclude that the answer is no, such testing appears redundant. This is because the strength of the lower anchorages would be assessed when the requisite child restraint anchorage systems at the outboard DSPs are tested. Further, our sled tests showed that the loads of the lower anchorages do not change significantly with the different lower anchorage spacing (280, 400 and 520 mm).[69] If the agency were to test the strength of a simulated child restraint anchorage system, a new test device would have to be developed because the test device currently used in FMVSS No. 225 is made to test only lower anchorages that are spaced 280 mm (11 in) apart.

A separate, but related, issue to consider is the potential problem of users using the same lower anchorage for the attachment of two lower anchorage connectors from adjacent child restraints. We request comments on solutions to mitigate this possible misuse problem. Ford includes a warning in vehicle owner's manuals to ''never attach two child safety seats to the same anchor.'' We request comment on whether vehicle manufacturers have received any complaints of confusion or reports of failures due to consumers installing two CRSs to the same lower anchorage. We also request comment on whether CPSTs have encountered this type of misuse in the field.

There is also the issue of whether we should limit the lateral spacing of the lower anchorages of the simulated system, to prohibit vehicle manufacturers from recommending the use of the inboard lower anchorages if the anchorages are more than a specified distance, such as 520 mm (20.4 in). NHTSA has test data indicating satisfactory performance by CRSs attached to lower anchorages spaced a maximum 520 mm (20.4 in) apart. We do not have test data assessing lower anchorages spaced more than 520 mm (20.4 in) apart.

b. Third Row

FMVSS No. 225 requires that at least one of the two required child restraint anchorage systems be installed at a second row seating position in each vehicle that has three or more rows. In the 1997 NPRM underlying the 1999 final rule establishing the standard, the agency requested comment on demographic data on the number of children typically transported in child restraints in family vehicles, to evaluate the need for additional child restraint anchorage systems in vehicles with three or more rows. The data we received did not show there were a significant number of families with three or more children in child restraints. Based on that data, NHTSA issued FMVSS No. 225 to require only two full child restraint anchorage systems in vehicles, plus the third tether anchorage.

We request comment on whether FMVSS No. 225 should require child restraint anchorage systems or tether anchorages in all rear seating positions. Would requiring child restraint anchorage systems or tether anchorages in all rear seating positions meet the need for motor vehicle safety? Would the requirement protect the public against unreasonable risk of death or injury in an accident? There were a number of comments to the 2007 LATCH public meeting expressing dissatisfaction with the number of child restraint anchorage systems that are present in the third row of vehicles. Some commenters said that consumers sometimes purchase vehicles with three or more rows to accommodate large families, but are unable to install all of the child restraints with child restraint anchorage systems because the third row does not have the systems.

NHTSA examined MY 2013 fleet data to determine the availability of child restraint anchorage systems in the third row. We estimate that 57.2 percent of vehicles with three rows have one additional seating position equipped with a child restraint anchorage system (additional to those required), 10 percent have two additional seating positions equipped with a child restraint anchorage system, and 32.7 percent do not have child restraint anchorage systems in the third row.[70] UMTRI's LATCH Usability study [71] found that 71 percent of vehicles with a third row had one or two tether anchorages in the third row (most were in addition to those required), 9 percent had 3 tether anchorages in the third row (most were in addition to those required), and 19 percent did not have a tether anchorage in the third row. In assessing the safety need for the requirement, we will consider how frequently child restraint anchorage systems are used in the third row. Recent surveys show that only about 2.4 [72] to 4.5 percent [73] of children in CRSs with internal harnesses (CRSs that would use the lower anchorages) are seated in the third row. We believe that the low use of the third row is due in part to the small number of families with multiple children in CRSs with internal harnesses.

There is also reduced space in the third row, which may make it difficult to fit most rear-facing CRSs. Information obtained from our February 25, 2011, request for comments notice [74] on the proposed NCAP Vehicle-CRS Fit program indicated that rear-facing CRSs are not likely to be used in the third row of a vehicle due to the available space. Several comments from vehicle manufacturers (Nissan, the Alliance of Automobile Manufacturers (Alliance) and the Association of Global Automakers) stated that vehicle designs present greater fit challenges for rear-facing CRSs in the third row. The groups stated that as CRSs continue to get larger and heavier and, as vehicles get smaller for fuel economy purposes, compatibility problems may become

contains no statements on use of simulated child restraint anchorage systems in the center position. NHTSA considered the spacing on the Toyota Tundra vehicles outliers in the study, and thus chose 520 mm (20.4 in) as the widest lower anchorage spacing in its testing.

[69] Amenson, T., Sullivan, L.K., ''Dynamic Evaluation of LATCH Lower Anchor Spacing Requirements and Effect of Tether Anchor Location on Tether and Lower Anchor Loads.''

[70] Based on 2013 vehicle production estimates submitted by vehicle manufacturers to NCAP.

[71] ''LATCH Usability in Vehicles,'' *supra.*

[72] NCRUSS, *supra.*

[73] *Id.*

[74] Docket NHTSA–2010–0062; 76 FR 10637.

even more prevalent for the third row positions. Consumers Union (CU) also expressed that it may be unreasonable for some vehicles to be expected to fit rear-facing CRSs in the third row. CU stated that its own evaluations have shown a need to fold second row seats flat in order to install a third row rear-facing CRS since many second row seats are not adjustable fore/aft. General Motors (GM) stated that because second row seats are often not adjustable, it is often ''impractical'' to install rear-facing CRS in the third row. GM referenced data collected via Safe Kids from July 2009 through January 2011 which showed that only one percent of children arrive at CRS checkpoints in a rear-facing CRS in the third row of a vehicle. UMTRI also commented that NHTSA's NCAP Vehicle-CRS fit program should not require rear-facing CRSs to fit in all available third row positions because most parents and caregivers do not choose to install rear-facing CRSs in this row.

NHTSA requests comment on whether FMVSS No. 225 should require child restraint anchorage systems in the third row if it is not altogether feasible to use rear-facing CRSs in the third row due to reduced space in that row. Information is also requested on the likelihood of consumers placing rear-facing CRSs in the third row, even if CRSs could fit in that row. Even if rear-facing child restraints could not or would not be installed using child restraint anchorage systems in the third row of a vehicle, are child restraint anchorage systems needed in the third row for forward-facing CRSs? The lower anchorages (plus tether anchorage) have a weight limit of 29.5 kg (65 lb) combined weight (CRS + child), meaning that consumers are instructed not to use the lower anchorages to attach a child restraint when the combined weight of the CRS and child exceeds 29.5 kg (65 lb). Consider also newly revised car seat use recommendations developed by NHTSA and by the American Academy of Pediatrics (AAP) [75] recommending that children should stay in a rear-facing CRS for as long as possible, within the top height and weight limit allowed by the CRS manufacturer. Most convertible CRSs specify a maximum child weight of 15.8–18 kg (35–40 lb) in the rear-facing mode.[76] All this indicates that, for child restraint anchorage systems installed at third row seating positions, use of the lower anchorages in the third row might only be for a relatively short period for forward-facing restraints.[77] If the lower anchorages were used after a child is transitioned to a forward-facing restraint (typically when the child reaches 15.8–18 kg (35–40 lb)), they would be used only while the child weighs 14.5 to 22.6 kg (32 to 50 lb), depending on the CRS weight.

Would an amendment requiring child restraint anchorage systems or tether anchorages at some or all third row seating positions meet the requirements and considerations of § 30111(a) and (b) of the Vehicle Safety Act? Currently, for vehicles that do not have a tether anchorage at the rear center seating position in the second row, a tether anchorage is already required to be in a third row seating position. Thus, the proposed requirement would be to have a second or third tether anchorage in the third row. We also request comment on the feasibility of installing child restraint anchorage systems and tether anchorages in some or all rear seating positions in vehicles with three or more rows.

We estimate that including lower anchorages in two additional seating positions would cost $7.2 million in vehicles with a third row ($2.50 per additional lower anchorage set) and $5.2 million for tether anchorages in all third row seating positions ($1.33 per additional tether anchorage). Testing costs would increase $1,500 per additional child restraint anchorage system in each seating position for each vehicle model. We request comment on these cost estimates.

c. Vehicles Currently Excluded From FMVSS No. 225

1. We request comments on the feasibility of installing anchorages in convertibles. FMVSS No. 225 currently excludes convertibles from having to provide tether anchorages in rear seating positions. In comments to the 1997 NPRM, GM and Mitsubishi stated that vehicle manufacturers have technical problems installing tether anchorages in convertibles because the vehicles have folding roofs, a stowage area behind the seat back for the top and its mechanism, and less rear seat space. NHTSA agreed that many convertibles could have design problems, and determined that it could not at that time readily separate those convertibles from those without technical problems. All convertibles were excluded from the requirement.

Since the time FMVSS No. 225 was established, tether anchorage designs have evolved and vehicle manufacturers have had over 10 years of experience installing them to meet the standard. Among 35 convertible vehicle models with a rear seat in the 2013 vehicle fleet, ten are equipped with the full child restraint anchorage system (lower anchorages and tether anchorage) in two rear DSPs, 14 are equipped with only the lower anchorages at two rear DSPs, and 11 are not equipped with any anchorages. We propose deleting the exclusion of convertible vehicles from the requirement to provide tether anchorages. We wish to know why the technical problems that existed in 1997 could not be overcome by the knowledge gained since 1997. We request comments on the feasibility of installing tether anchorages in the second row of convertibles, and in the first row in convertibles that do not have a second row.

2. FMVSS No. 225, at S5(e), states that a vehicle—

> with a rear designated seating position for which interference with transmission and/or suspension components prevents the location of the lower bars of a child restraint anchorage system anywhere within the zone described by S9.2 or S15.1.2.2(b) such that the attitude angles of S15.1.2.2(a) could be met, is excluded from the requirement to provide a child restraint anchorage system at that position. However, except as provided elsewhere in S5 of this standard, such a vehicle must have a tether anchorage at a front passenger designated seating position.

We request comment on whether this exclusion in S5(e) of FMVSS No. 225 is still needed. Since the issuance of FMVSS No. 225, manufacturers have gained experience in designing and installing vehicle seats with lower anchorages. We believe that vehicle seats could be installed with the lower anchorages so as not to interfere with transmission and/or suspension components. We have tentatively determined there is no longer a need for S5(e) and propose deleting it.

d. Written Instructions

NHTSA requests comments on the following possible ways to enhance the instructions provided consumers about using child restraint anchorage systems.

1. Terminology

Standard No. 225 (S12) requires vehicle manufacturers to provide

[75] Policy Statement—Child Passenger Safety. Committee on Injury, Violence and Poison prevention March 21.2011) Pediatrics—Official Journal of the American Academy of Pediatrics. *http://pediatrics.aappublications.org/content/early/2011/03/21/peds.2011-0213.full.pdf+html* (last accessed June 24, 2014).

[76] This corresponds to the weight of a 50th to 80th percentile 4-year-old child.

[77] Generally lower anchorages would be used to attach a rear-facing child restraint until the child is 15.8–18.1 kg (35–40 lb), and then used for a forward-facing restraint only while the child weighs 14.5–22.6 kg (32 to 50 lb), depending on CRS weight.

written instruction for using child restraint anchorage systems and tether anchorages. Standard No. 213 (S5.6.1) specifies that child restraint systems provide printed instructions that include a step-by-step procedure for installing and securing the child restraint system in a vehicle. To improve the ease of use of child restraint anchorage systems, should the written information provided pursuant to Standards No. 225 and No. 213 use standardized terminology referring to the parts of the child restraint anchorage system and the components of the child restraint that connect the CRS to the vehicle? We request comment on whether requiring the following terms in child restraint and vehicle user's manuals would help make the instructions clearer and more uniform: ''lower anchor(s)'' and ''tether anchor'' for components of the child restraint anchorage system, and ''lower anchor attachments'' and ''tether'' for components of the CRS that are used to connect the CRS to the vehicle. A ''lower anchor attachment'' is comprised of a ''lower anchor connector'' and a ''lower anchor strap,'' (for flexible lower anchor attachments) and a ''tether'' is comprised of a ''tether hook'' and a ''tether strap.'' Would standardized terminology improve consumer education efforts and increase the likelihood that child restraints would be used correctly? [78]

2. Recommendation for Tether Anchorage Use

NHTSA has tentatively determined that consumers should be instructed to always attach the CRS tether when restraining a child in a forward-facing CRS with an internal harness. Further, we believe that the instruction is appropriate when the CRS is installed using the lower anchorages of a child restraint anchorage system [79] and when the CRS is installed using a seat belt. The instruction is simple and would increase the ease of use of tether anchorages. The agency requests comments on this issue.

If consumers were provided the simple and straightforward instruction to always attach the tether on the subject CRSs, we believe that tether use would increase, to the benefit of child passengers. In tests of a restrained dummy in forward-facing CRSs with harnesses, researchers found reduced head excursions due to tether use in frontal sled tests conducted at different speeds.[80] Field data indicate that the most common injury to children restrained in child restraints is a head injury, and the source of injury is often contact with vehicle structures in front of the child restraint, such as the vehicle front seat back.[81] We tentatively conclude that the use of tethers would reduce the magnitude of head excursions, and that reduced head excursions would result in fewer and less severe head injuries.[82]

Test data indicate that tether anchorages are extremely robust and would be reasonably able to withstand crash forces generated by virtually all restrained children in the subject CRSs. As explained below, NHTSA (a) estimated the dynamic loads that are imparted to tether anchorages in 47–56 km/h (30–35 mph) crashes; [83] (b) assessed the strength of current tether anchorages through quasi-static laboratory testing; and (c) analyzed those data to estimate the dynamic loads that current anchorages would be able to withstand. NHTSA has tentatively determined that the analysis shows that tether anchorages are sufficiently strong to warrant an instruction that they should be used with all children restrained in a forward-facing CRS with an internal harness.

Dynamic Loads

The agency estimated the loads that are imparted to tether anchorages in relatively severe crashes. We reviewed Transport Canada data of tether anchorage loads measured in 47–56 km/h (30–35 mph) full frontal rigid barrier crash tests of 20 MY 2009 and 2010 vehicle models.[84] Transport Canada placed child restraints in the outboard rear seating positions using the child restraint anchorage system (including the top tether). The program involved 28 crash tests with the HIII–6C dummy and 4 crash tests with the HIII–10C dummy. The weight of the CRSs used in the tests ranged from 5.1 kg (11.4 lb) to 11.3 kg (25.1 lb), and the combined weight of the CRS plus the 6 year-old and 10 year-old child dummies ranged from 28.1 to 42.1 kg (62 to 93 lb). The peak vehicle acceleration in these crash tests ranged from 30 g to 68 g.

In the Transport Canada tests, the total anchorage loads (sum of forces on the lower anchors and the tether anchor) ranged from 7,500 N (1,686 lb) to 20,800 N (4,676 lb) with the HIII–6C dummy, and from 13,300 N (2,990 lb) to 20,400 N (4,586 lb) with the HIII–10C dummy (see Tables A1(a) and A1(b) in the Appendix to the preamble of the February 25, 2014 final rule, 79 FR at 10414–10416). The peak measured tether loads ranged from 677 N (152 lb) to 6,951 N (1,562 lb). The tether loads were approximately 8 percent to 50 percent of the total measured anchorage loads, with an average of 29 percent of the total. There were no tether anchorage failures in any of the tests.[85]

We believe the data from the Transport Canada tests (involving 47–56 km/h (30–35 mph) full frontal rigid barrier crash tests) represent just about all crashes involving restrained children

[78] We tentatively believe that the term ''LATCH'' is not clear enough for this purpose. As explained in an earlier footnote, the term ''LATCH,'' is an acronym for ''Lower Anchors and Tethers for Children,'' which was developed by industry as a consumer-friendly term to describe the child restraint anchorage system. While the term has been beneficial, it is also associated with some ambiguity and confusion. For one thing, various vehicle and CRS manufacturers have used the term ''LATCH'' in users' manuals differently. ''LATCH'' has been used to refer to the ''lower anchors'' of a child restraint anchorage system, the full 3-point child restraint anchorage system, or to the CRS tether. Also, some consumers mistakenly associate CRS tether use only with attachment of the CRS using the lower anchorages of a child restraint anchorage system and not with a CRS attachment using the seat belt, a misconception possibly reinforced by the LATCH term.

[79] NHTSA amended FMVSS No. 213 (February 27, 2012, 77 FR 11626) (response to petition for reconsideration, February 25, 2014, 79 FR 10396) to require, among other things, a label on some CRSs, specifying the maximum child weight for using the lower anchorages to install child restraints with internal harnesses. Child weight limit = 29.5 kg (65lb) − CRS weight. The 2014 final rule provided manufacturers an option of rounding the value up to the next multiple of 2.2 kg (5 lb) using a lookup table.

[80] UMTRI Research Review—Crash Protection for Child Passengers: Rationale for Best Practice, January-March 2012, Volume 43, Number 1. *http://www.umtri.umich.edu/content/rr_43_1.pdf*.

[81] Analysis of 1993–2007 NASS–CDS data files showed that the most-common AIS 2+ injuries among children restrained in rear seats were to the head and face and the most-common contacts for AIS 2+ injuries to these children were the seat and back support. An estimated 39 percent of AIS 2+ injuries in frontal crashes to children restrained in rear seats were to the head and face with 59 percent of these injuries resulting from contact with the seat and back support in front of the seating position.

[82] We believe that tether use may particularly benefit taller children since they may experience greater head excursion than children with shorter seated height.

[83] Additionally, our analysis of 1993–2007 NASS–CDS data files indicate that 99.4 percent of crashes that involve restrained children have delta Vs less than or equal to 30 mph.

[84] Dynamic Load Measurement of Child Restraint Anchors in Frontal Vehicle Crashes Conducted by Transport Canada, See docket for this notice of proposed rulemaking. Details of the Transport Canada tests are available in Docket No. NHTSA–2014–0026.

[85] The Transport Canada tests included a 56 km/h (35 mph) frontal impact test of a Kia Forte with a Hybrid III 10 year-old child dummy restrained in Safety 1st Apex 65 CRS. The CRS was installed in the right outboard rear seat with lower and tether anchorages. The CRS weighed about 5.9 kg (13 lb). The combined weight (child+CRS) in this test was 40.8 kg (90 lb), the peak vehicle acceleration was 46 G. The total maximum anchorage loads measured in this test was 20,395 N (4,584.9 lb). The peak tether anchorage load was 7,759 N (1,744.3 lb). In that test, one of the lower anchorages failed but the tether anchorage was intact.

in the subject CRSs in the U.S. Our analysis of real world crash data indicate that 99.4 percent of crashes that involve children in CRSs have delta Vs less than or equal to 30 mph.[86] Thus, the Transport Canada data are indicative of the loads that are typically imposed on tether anchorages in virtually all crashes involving children in forward-facing CRSs with internal harnesses.

Measured Strength of Tether Anchors in the Current Fleet

We conducted quasi-static tests on child restraint anchorages in 11 MY 2006–2011 [87] vehicle models and 18 MY 2013 vehicle models [88] to assess the strength of the anchorages in the current fleet. (These vehicles were previously crash-tested, but NHTSA examined the vehicles to assess the condition of the child restraint anchorage systems to determine the suitability of the vehicles for inclusion in the quasi-static test program.) A static pull test was conducted on the tether anchors alone in three rear seating positions using a cable at loading rates similar to that specified in FMVSS No 225, but to higher loads or to anchorage failure.[89]

Among the 11 MY 2006–2011 vehicle models tested, 27 tether anchors were subjected to quasi-static loads. All the tether anchorages had strengths greater than 10,000 N (2,248 lb). Three tether anchorages were loaded to failure: Failure of the tether anchorage occurred at 11,900 N (2,675 lb) in the Ford Taurus, and 13,200 N (2,967 lb) and 14,400 N (3,237 lb) in the Toyota Yaris.

Among the 18 MY 2013 vehicle models tested, 43 tether anchors were subjected to quasi-static loads. All of the tether anchorages had strengths greater than 10,000 N (2,248 lb).[90]

Dynamic to Static Strength

Although there is no consistent and direct correlation between dynamic to static strength of anchorage systems, and although the dynamic to static strength ratio is vehicle specific, data show that child restraint anchorage systems are able to withstand higher loads dynamically than statically. In the Alliance's petition for reconsideration of the strength requirements of the 1999 final rule establishing FMVSS No. 225, the Alliance indicated that the quasi-static test load of FMVSS No. 225 simulating a high-speed impact should be approximately 50 percent of the expected dynamic load.[91] Toyota also expressed the view [92] that the tether anchorage is able to withstand greater loads dynamically than statically, and estimated the value to be 30 percent.

NHTSA has estimated the minimum dynamic loads that current anchorages would be able to withstand, given the information from the Alliance and Toyota regarding a dynamic to quasi-static load relationship and the quasi-static load data that were available from our test program. NHTSA's quasi-static anchorage load tests showed that all tether anchorages had a static strength greater than 10,000 N (2,248 lb). Applying the more conservative assumption for a dynamic to static strength ratio of 1.3, the dynamic strength of the tether anchorages is expected to be greater than 13,000 N (2,922 lb).

This estimated dynamic strength of 13,000 N (2,990 lb) is about two times the tether anchorage loads measured in Transport Canada's 47–56 km/h (30–35 mph) frontal vehicle crash tests. In those tests, the peak measured tether loads ranged from 677 N (152 lb) to 6,951 N (1,562 lb). These data suggest that tether anchorages are unlikely to fail in virtually all crashes involving children restrained in forward-facing CRSs with internal harnesses.

We have tentatively determined that the benefits of tether use for all children in the subject CRSs (regardless of child weight) outweigh the risks occurring from tether anchorage failure due to a higher combined weight and/or a higher severity crash. Thus, we believe that tethers should be attached regardless of child weight in forward-facing CRSs with internal harnesses.[93] The tether supplements the primary attachment of the CRS to the vehicle seat (the primary attachment is accomplished by the lower anchorages of the child restraint anchorage system or by the vehicle seat belt). The primary attachment of the CRS to the vehicle should never fail in a crash since its integrity is needed to avoid a catastrophic uncoupling of the CRS from the vehicle.[94] Further, child restraints are required by FMVSS No. 213 to provide basic crash protection, including head protection, when installed only by the lower anchorages of a child restraint anchorage system or a seat belt, without the tether. The tether contributes to the basic crash protection provided by CRSs by enhancing head protection. Given the data that indicate that tether anchorages are already reasonably robust to withstand crash forces, we tentatively believe that tether use should be recommended for all children in forward-facing child restraints with internal harnesses so that the enhanced head protection can be achieved.

Some CRS manufacturers are currently recommending tether use for all forward-facing child restraints with internal harnesses, regardless of the child weight.[95] Given the available information on anchorage strength and on the benefits of tether use, we tentatively believe that such an instruction should be encouraged. We request comment on the merits of an instruction to consumers to use the tether to install all forward-facing child restraints with internal harnesses.

XI. Proposed Effective Date

The agency is proposing a lead time of 3 years from date of publication of the final rule. This means that vehicles manufactured on or after the date 3 years after the date of publication of the final rule would be required to meet the ease of use requirements. In addition, child restraints manufactured on or after the date 3 years after the date of publication of the final rule would be required to meet the proposed FMVSS No. 213 requirements. We propose to permit optional early compliance with the requirements beginning 60 days after the date of publication of the final rule.

We believe there is good cause for providing a 3-year lead time. The lead time is long enough for vehicle manufacturers to redesign the lower anchorages in their vehicles to meet the

[86] Analysis of 1993–2007 NASS–CDS data files.

[87] Valentin-Ruiz, et al. ''Quasi-static load tests to evaluate the strength of child restraint anchorage systems in MY 2006–2011 vehicles,'' NHTSA Report, December 2013. See docket for this notice of proposed rulemaking.

[88] ''Quasi-static load tests to evaluate the strength of child restraint anchorage systems in MY 2013 vehicles,'' ALPHA Technology Associates, Inc., December 2013. See docket for this notice of proposed rulemaking.

[89] A few tether anchorage load tests were conducted until failure of the anchorages. However, after an equipment failure, the tether loads were limited to 10,000 N (2,248 lb) to prevent damage to the equipment. Since the tether anchorage tests were performed after the lower anchorage tests, and because some of the vehicle seats experienced excessive seat damage and deformation during the lower anchorage tests, achieving target loads in the tether anchorage tests was not possible in some vehicles.

[90] Twenty-five tether anchors were tested to increased loads. In some tests, even though there was no anchorage failure, there was significant displacement and deformation of adjoining structures including the seat. In some cases, the target loads could not be achieved because of significant deformation of the seat structure.

[91] See 68 FR 38208, 38218; June 27, 2003.

[92] *Id.*

[93] When the combined weight of CRS+child exceeds 29.5 kg (65 lb), the CRS is to be attached by the seat belt plus tether.

[94] Thus, the combined weight of CRS+child should not exceed 29.5 kg (65 lb) on the lower anchorages.

[95] The CRS manufacturers instruct consumers to attach the CRS by the seat belt plus tether when the combined weight of CRS+child exceeds the weight limit of the child restraint anchorage system.

proposed requirements. The UMTRI LATCH Usability study survey of 98 MY 2010–2011 vehicles indicates that 79 percent will need some redesigning to comply with the new lower anchorage usability requirements, and a small percentage of vehicles that currently use webbing loops for tether anchorages will need to redesign the anchorages to rigid anchorage bars. We believe that these design modifications are minor and mainly concern the vehicle seat and not the vehicle structure. Some tether anchorages may have to be repositioned to provide the 165 mm (6.5 in) strap wrap-around distance. This modification to the tether anchorage location in some vehicles is also minor and would not require any changes to the vehicle structure.

The 1999 final rule promulgating FMVSS No. 225 provided a 3-year lead time (with a phase-in) for compliance with the lower anchorage requirements even though vehicles did not have lower anchorages. The main requirements proposed by this NPRM involve only adjustments to the positioning of lower anchorages and tether anchorages already installed pursuant to FMVSS No. 225 and some modifications to seat cushion stiffness. Therefore, the agency is proposing a 3-year lead time, with no phase-in, since we believe that the lead time is sufficient for vehicle manufacturers to reposition lower anchorages and tether anchorages, if needed, to change seat cushion characteristics, and to mark the lower anchorages and tether anchorage with the ISO signage. Three years would also be sufficient time to change the relatively few tether anchorages that are made of webbing material to rigid anchorage bars. The three years of lead time would provide sufficient time for manufacturers to change the written instructions provided with the vehicles as proposed.

We also believe that 3 years of lead time provides sufficient time for child restraint manufacturers to meet the proposed rule. Comments are requested on whether this lead time should be shortened. This NPRM proposes minor changes to the requirements applying to CRSs. The requirements are: Limiting the length of the tether hardware assembly (consisting of a tether hook and hardware to tighten and loosen the tether strap) to 165 mm (6.5 in) (UMTRI estimated that about 30 percent of CRS models might need some changes to the tether hardware assembly to meet the 165 mm (6.5 in) limit), marking the lower anchorage connectors and the tether connector (hook) with the ISO marking, and changing written instructions provided to consumers to include the defined terms and instruction on using the tether. These are minor changes that do not affect the shell or any other structure of the child restraint. We believe the marking and user's instructions amendments could be implemented in a year. Would it be worthwhile to implement some or all of the proposed changes to child restraints before the proposed changes are implemented for vehicles, particularly the marking and user's written instructions requirements? The combined data from NHTSA's survey of 24 MY 2010 vehicles and from UMTRI's LATCH Usability study indicate that, of the 122 vehicles surveyed, 76 percent of lower anchorages and 73 percent of tether anchorages were marked with the ISO symbol. Since many child restraint anchorage systems are already being marked with the ISO symbol, we tentatively conclude that it might be beneficial to have a shorter lead time to mark the CRS lower anchorage connectors and tether hook with the ISO symbol than 3 years after publication of a final rule. In that way, consumers can begin learning sooner rather than later to match the ISO symbols on CRSs with the ISO symbols in the vehicle.

XII. Regulatory Notices and Analyses

Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563, and DOT Regulatory Policies and Procedures

The agency has considered the impact of this rulemaking action under E.O. 12866, E.O. 13563, and the Department of Transportation's regulatory policies and procedures. This rulemaking was not reviewed by the Office of Management and Budget under E.O. 12866, ''Regulatory Planning and Review.'' The rulemaking action has also been determined to be not significant under the Department's regulatory policies and procedures.

The total cost of the proposed rule is estimated to be $1.32 million. The cost is primarily due to the ISO labeling requirement.

Vehicle Costs

The agency tentatively concludes that the proposed requirements for attachment force, clearance angle and anchorage depth would not add costs to the vehicle. To meet the requirements, vehicle seat designs would change, but the redesigns would involve simple modifications to the existing vehicle materials (*i.e.,* the seat cushion) and not an addition to the vehicle or a change to the vehicle structure. We estimate that vehicle seats in approximately 79 percent of vehicles would be affected, but the changes to meet the requirement would only call for steps such as cutting larger open areas in the seat foam surrounding the lower anchorage bars, or repositioning the seat cushion relative to the anchorage bars. Redesigning the vehicle seats to meet the requirements would be a one-time event, and would be so minor that the costs for the redesigns would be slight. In addition, NHTSA proposes to provide three years of lead time before manufacturers must certify their vehicles as meeting the final rule requirements. That lead time would provide sufficient time for manufacturers to minimize costs since they may incorporate designs that meet the new requirements into their regular vehicle redesign and manufacturing cycle.

The agency estimates that the cost of conducting the lower anchorage usability tests for evaluating attachment force, clearance angle, and anchorage depth would be an average of $300 per vehicle. We estimate that 560 models comprise the 16.32 million vehicles sold annually that are subject to this NPRM. The total testing cost for 560 models is $168,000. This testing cost, distributed among the 16.32 million vehicles sold annually, with an average model life of 10 years, is approximately $0.001 per vehicle.

With regard to the proposed tether anchorage requirements, some tether anchorages in existing vehicles will have to be moved further from the head restraint to meet the minimum strap wrap-around distance requirement. NHTSA has tentatively determined that such a change would not add cost to the vehicle, since new material, or substantial change to vehicle design, would not be needed. The agency estimates that the cost of conducting the tether location measurement would be approximately $50. We estimate that 560 models comprise 16.32 million vehicles sold annually, for an annual testing cost of $28,000. This testing cost, distributed among the 16.32 million vehicles sold annually, with an average model life of 10 years, is significantly less than $0.001 per vehicle. Since these testing costs per vehicle (lower anchorage usability tests and tether anchorage location test) is so small, it is not included in the overall costs of the rule).

A very small percentage of vehicles that currently have webbing loops for tether anchorages will need to make the anchorages rigid bars. It is difficult to estimate the redesign costs of these vehicles because the number of vehicles affected is very small. Comments are requested on the redesign costs and

certification costs for these vehicles, and how a 3-year lead time for complying with the new requirements affects those costs.

The proposal would require all the lower anchorages and tether anchorages to be marked with the ISO signage. We estimate there are 16.32 million vehicles produced annually, with 31.9 million lower anchorage-equipped seating positions and 42.9 million tether anchorage-equipped seating positions. Our survey of 122 MY 2010–2011 vehicles indicates that 82 percent of lower anchorages and 73 percent of tether anchorages already are marked with the ISO symbol. We estimate the cost of ISO marks for a set of lower anchorages to be $0.05 and the cost of marking the tether anchorage would be $0.025. The total incremental cost to have ISO marks for all lower anchorages in the fleet is $0.29 million (= $0.05 × 0.18 × 31.9). The total incremental cost to have ISO marks for all tether anchorages in the fleet is $0.29 million (= $0.025 × 0.27 × 42.9). Therefore, the total incremental cost of labeling all child restraint anchorages with appropriate ISO marks is about $0.58 million.

The cost of changing the written instructions accompanying the vehicle is expected to be negligible (significantly less than $0.01).

Child Restraint System Costs

The proposal would require the length of the tether hardware assembly (which consists of a tether hook and a webbing tightening mechanism) of child restraint systems to be not greater than 165 mm (6.5 in). About 30 percent of forward-facing child restraints may need some minor modification to the tether hardware assembly to meet the length limit. We tentatively conclude that a 3-year lead time is sufficient for this purpose. The tether hardware assembly is a simple part that can be easily produced and attached to child restraint tethers.

The NPRM also proposes to require the ISO marks to be placed on child restraint anchorage connectors. The agency estimates that 14.9 million CRSs are sold in the U.S. annually, of which 75 percent (11.18 million infant carriers, convertibles, forward-facing only, combination, and 3-in-1 CRSs) have lower anchorage connectors and of which 48 percent (7.18 million convertibles, forward-facing only, combination, and 3-in-1 CRSs) have tethers. Applying an estimated cost of $0.05 for ISO marks on one set of lower anchorage connectors, the total cost for all applicable CRSs is $0.56 million (= $0.05 × 11.18 million). Applying an estimated cost of $0.025 for ISO marks on a tether anchorage connector, the total cost for all applicable CRSs is $0.18 million (= $0.025 × 7.18 million). Therefore, we estimate that the total cost of adding ISO marks to child restraint anchorage connectors is $0.74 million (= $0.56 million + $0.18 million).

The cost of changing the written instructions accompanying the CRS is expected to be negligible (significantly less than $0.01).

Benefits

We expect the new usability requirements would improve correct (tight) installation of CRSs, and increase tether use. Survey data indicate that the tether is used in 56 percent of child restraint installations, but is used correctly in only 39 percent of the installations.[96] The data also indicate that approximately 60 percent of child restraints are installed using the lower anchorages.[97]

Assuming a 5 percent increase in tether use, and using data on the reduction in injury measures in sled tests with and without tether use,[98] the agency estimates that the proposed changes to the tether anchorage requirements of FMVSS Nos. 213 and 225 could save 1.5 lives and prevent 4 moderate to severe injuries. Assuming a 5 percent increase in correct CRS installation due to the proposed improvements to the lower anchorage requirements, and using the reduction in injury measures in sled tests with loose and tight installations,[99] the agency estimates that the proposed usability requirements for the lower anchorages could save 1.4 lives and prevent 2.4 moderate to severe injuries. Therefore, we estimate that the proposed requirements could save about 2.9 lives and prevent 6 moderate to severe injuries per year.

The proposed rule would also streamline FMVSS No. 225 by removing outdated material, such as sections of the standard that relate to requirements that were phased in when the standard was adopted. Streamlining FMVSS No. 225, a result of retrospectively reviewing the standard, would be consistent with E.O. 13563, ''Improving Regulation and Regulatory Review'' and the plain language provisions of E.O. 12866.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of proposed rulemaking or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions), unless the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Agencies must also provide a statement of the factual basis for this certification.

I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. NHTSA estimates there to be 29 manufacturers of child restraints, none of which are small businesses. Even if there were a small CRS manufacturer, the impacts of this proposed rule would not be significant. This NPRM proposes minor changes to the requirements applying to CRSs. The requirements are: Limiting the length of the tether hardware assembly (tether hook and tightening mechanism) to 165 mm (6.5 in) (UMTRI estimated that about 30 percent of CRS models might need some changes to the tether hardware assembly to meet the 165 mm (6.5 in) limit), marking the lower anchorage connectors and the tether hook or tether strap with the ISO marking, and changing written instructions provided to the owners to include the defined terms and instruction on using the tether. These are minor changes that do not affect the shell or any other structure of the child restraint. We believe that there would be no incremental cost due to limiting the tether hardware assembly to 165 mm (6.5 in) since the tether hardware assembly costs would not increase because of the requirement. We estimate that the cost of marking the CRS child restraint anchorage connectors would be about $0.05 per set of lower anchorage connectors and $0.03 per tether hook. Changing the written instructions

[96] Eichelberger, A.H., Decina, L.E., Jermakian, J.S., McCartt, A.T., ''Use of top tether with forward facing child restraints: Observations and driver interviews,'' Insurance Institute for Highway Safety, April 2013.

[97] NCRUSS, DOT HS 811 679, *http://www-nrd.nhtsa.dot.gov/Pubs/811679.pdf.*

[98] Final Economic Assessment FMVSS No. 213 and 225 Child Restraint Systems and Child Restraint Anchorage Systems, 1999, Docket No. NHTSA–1998–2290, Item No. 27. Table 6b of the Final Economic Assessment shows a head injury measure for the 3-year-old child dummy of 503 when tether is used and 631 when tether is not used.

[99] Final Economic Assessment FMVSS No. 213 and 225 Child Restraint Systems and Child Restraint Anchorage Systems, 1999, Docket No. NHTSA–1998–3390, Item No. 27. Table 4 of the Final Economic Assessment shows a head injury measure for the 6-year-old child dummy of 642 for tight installation and 697 for loose installation.

accompanying CRSs would be negligible (significantly less than $0.01).

There are six small vehicle manufacturers. We believe that the proposed rule would not have a significant economic impact on these manufacturers. The vehicles produced by the small manufacturers already have to provide child restraint anchorage systems and tether anchorages meeting FMVSS No. 225, unless the vehicle is excluded from the standard. We believe that the changes proposed in this NPRM only make adjustments to the physical features of the anchorage systems, adjustments that should have a positive impact on the ease of use of the systems, but that are small in terms of affecting the overall configuration of current anchorage systems. We estimate the cost of marking the lower anchorages and the tether anchorages would only be <$0.12 approximately (depending on the number of anchorages in the vehicle) per vehicle. The cost of changing the written instructions accompanying the vehicle would be negligible (<$0.01).

Final-stage vehicle manufacturers buy incomplete vehicles and complete the vehicle. Alterers modify new vehicles. In either case, NHTSA tentatively concludes that the impacts of a final rule on such entities would not be significant. Final-stage manufacturers or alterers installing rear seats in vehicles subject to FMVSS No. 225 already have to provide child restraint anchorage systems and tether anchorages meeting FMVSS No. 225. We believe that the changes proposed in this NPRM only make small adjustments to the physical features of the anchorage systems, adjustments that should have a positive impact on the ease of use of the systems, but that are minor in terms of the impact on the configuration of current anchorage systems. We estimate the cost of marking the lower anchorages and the tether anchorages would be less than $0.12 per vehicle (depending on the number of anchorages in the vehicle). The cost of changing the written instructions accompanying the vehicle would be negligible (significantly less than $0.01 per vehicle).

National Environmental Policy Act

NHTSA has analyzed this proposed rule for the purposes of the National Environmental Policy Act and determined that it would not have any significant impact on the quality of the human environment.

Executive Order 13132 (Federalism)

NHTSA has examined today's proposed rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposed rule would not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

NHTSA rules can preempt in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. 49 U.S.C. 30103(b)(1). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which ''[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.'' 49 U.S.C. 30103(e) Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved. However, the Supreme Court has recognized the possibility, in some instances, of implied preemption of such State common law tort causes of action by virtue of NHTSA's rules, even if not expressly preempted. This second way that NHTSA rules can preempt is dependent upon there being an actual conflict between an FMVSS and the higher standard that would effectively be imposed on motor vehicle manufacturers if someone obtained a State common law tort judgment against the manufacturer, notwithstanding the manufacturer's compliance with the NHTSA standard. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. See *Geier* v. *American Honda Motor Co.,* 529 U.S. 861 (2000).

Pursuant to Executive Order 13132 and 12988, NHTSA has considered whether this proposed rule could or should preempt State common law causes of action. The agency's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation. To this end, the agency has examined the nature (*e.g.,* the language and structure of the regulatory text) and objectives of today's proposed rule and finds that this proposed rule, like many NHTSA rules, would prescribe only a minimum safety standard. As such, NHTSA does not intend that this proposed rule would preempt state tort law that would effectively impose a higher standard on motor vehicle manufacturers than that established by today's proposed rule. Establishment of a higher standard by means of State tort law would not conflict with the minimum standard proposed here. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

Civil Justice Reform

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this proposed rule is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

Paperwork Reduction Act (PRA)

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. Before seeking OMB approval, Federal agencies must provide a 60-day public comment period and otherwise consult with members of the public and affected agencies concerning each collection of information requirement. NHTSA believes the proposed requirement to explain the meaning of the proposed standardized marks on the lower anchorage connectors and the tether hook in the CRS instruction manual would constitute a ''collection of information'' requirement for child restraint system manufacturers. We are providing a 60-day comment period on reporting burdens and other matters associated with the instruction requirement.

OMB has promulgated regulations describing what must be included in the request for comment document. Under OMB's regulation (5 CFR 1320.8(d)), an agency must ask for public comment on the following:

Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

How to enhance the quality, utility, and clarity of the information to be collected;

How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following collection of information:

Title: ''Consolidated Child Restraint System Registration, Labeling and Defect Notifications.''

OMB Control Number: 2127–0576.

Requested Expiration Date of Approval: Three years from the approval date.

Type of Request: Revision of a currently approved collection.

Affected Public: Business, Individuals and Households.

Summary of the Collection of Information: This rulemaking proposes to require CRS manufacturers to include an explanation of the meaning of the standardized markings on the lower anchorage connectors and the tether hook (if available on the CRS) in the printed instructions already provided with each new CRS. The standardized markings on the CRS lower anchor connector and tether hook would help in the development of a consistent and simple education message to improve awareness of child restraint anchorage systems and improve correct installation of child restraints.

NHTSA anticipates a change to the hour burden or costs associated with FMVSS No. 213 due to inclusion of an explanation of the meaning of the standardized markings in the CRS printed instructions. Child restraint manufacturers produce, on average, a total of approximately 4,500,000 child restraints per year. We estimate 2 seconds of additional burden per child restraint for the addition of the information on the existing instruction manual (2 sec × 4,500,000 units = 9,000,000 seconds = 2,500 hours).

Estimated Additional Annual Burden: 2,500 Hours.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

You may submit comments (identified by the DOT Docket ID Number above) by any of the following methods: Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments. Mail: Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001 between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Fax: 202–493–2251. Regardless of how you submit your comments, please provide the docket number of this document. You may call the Docket at (202) 366–9324.

Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments. Voluntary consensus standards are technical standards (*e.g.,* material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the International Organization for Standardization (ISO) and the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

NHTSA reviewed various procedures and requirements developed by ISO and SAE to improve the ease of use of child restraint anchorage systems. ISO developed a rating system that evaluates and rates the usability of the CRS's ISOFIX features, the vehicle's ISOFIX system, and the interaction between the two.[100] SAE developed a draft recommended practice providing guidelines to vehicle manufacturers to consider when designing characteristics of vehicle lower and upper (tether) anchorages, and to CRS manufacturers for corresponding features of CRS lower anchorage and tether connectors.[101] In our review, we determined that the ISO and SAE draft programs overall are unlikely to improve the usability of child restraint anchorage systems as effectively as today's NPRM. The ISO

[100] Draft ISO Standard 29061–1:2010, ''Road vehicles—Methods and criteria for usability evaluation of child restraint systems and their interface with vehicle anchor systems—Part 1: Vehicles and child restraint systems equipped with ISOFIX anchors and attachments,'' (November 2010).

[101] Draft SAE J2893, ''Guidelines for Implementation of the Child Restraint Anchorage System in Motor Vehicles and Child Restraint Systems.''

draft standard primarily rates the vehicles and does not directly mandate improvements to the usability of child restraint anchorage systems. Further, UMTRI evaluated vehicles using the draft ISO standard 29061–1:2010 and found no correlation between usability ratings and correct installation of child restraints in the vehicles in user trials. The draft SAE recommended practice J2893 is limited because it is a guideline and does not mandate improved usability.

However, we have tentatively determined that aspects of the ISO and SAE procedures and requirements would improve the ease of use of child restraint anchorage systems and have proposed their inclusion in this NPRM. This NPRM proposes to require the signage developed by ISO for marking lower anchorages and tether anchorages in vehicles, and lower anchorage connectors and tether hooks on CRSs. This NPRM also proposes to adopt the clearance angle and attachment force criteria developed by draft SAE Standard J2893, and proposes to use SAE-developed tools and procedures for evaluating child restraint anchorage system hardware in vehicles.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). Adjusting this amount by the implicit gross domestic product price deflator for the year 2010 results in $136 million (110.993/81.606 = 1.36). This NPRM would not result in a cost of $136 million or more to either State, local, or tribal governments, in the aggregate, or the private sector. Thus, this NPRM is not subject to the requirements of sections 202 of the UMRA.

Executive Order 13609 (Promoting International Regulatory Cooperation)

The policy statement in section 1 of E.O. 13609 provides, in part:

The regulatory approaches taken by foreign governments may differ from those taken by U.S. regulatory agencies to address similar issues. In some cases, the differences between the regulatory approaches of U.S. agencies and those of their foreign counterparts might not be necessary and might impair the ability of American businesses to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

NHTSA requests public comment on the ''regulatory approaches taken by foreign governments'' concerning the subject matter of this rulemaking. In the discussion above on the NTTAA, we have noted that we have reviewed the procedures and regulations developed by ISO and SAE to increase the ease of use of child restraint anchorage systems and have used parts of those procedures in this NPRM. Comments are requested on the above policy statement and the implications it has for this rulemaking.

Regulation Identifier Number

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please write to us with your views.

In our proposed regulatory text for FMVSS No. 225, we have removed outdated sections and deleted obsolete language in an effort to make the standard more concise and easier to understand. We also propose to renumber some sections when multiple outdated paragraphs would be deleted, so that the standard would be easier to read. Please let us know if there are other housekeeping measures we could take to improve the plain language of the standard.

XIII. Public Participation

In developing this proposal, we tried to address the concerns of all our stakeholders. Your comments will help us improve this proposed rule. We welcome your views on all aspects of this proposed rule, but request comments on specific issues throughout this document. Your comments will be most effective if you follow the suggestions below:

—Explain your views and reasoning as clearly as possible.
—Provide solid technical and cost data to support your views.
—If you estimate potential costs, explain how you arrived at the estimate.
—Tell us which parts of the proposal you support, as well as those with which you disagree.
—Provide specific examples to illustrate your concerns.
—Offer specific alternatives.
—Refer your comments to specific sections of the proposal, such as the units or page numbers of the preamble, or the regulatory sections.
—Be sure to include the name, date, and docket number with your comments.

Your comments must be written and in English. To ensure that your comments are correctly filed in the docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit your comments to the docket electronically by logging onto *http://www.regulations.gov* or by the means given in the **ADDRESSES** section at the beginning of this document.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html*.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit a copy from which you have deleted the claimed confidential business information to the docket. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the agency consider late comments?

We will consider all comments that the docket receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that the docket receives after that date. If the docket receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by the docket at the address given above under **ADDRESSES**. You may also see the comments on the Internet (*http://regulations.gov*).

Please note that even after the comment closing date, we will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the docket for new material.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, and Tires; Incorporation by Reference.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.95.

■ 2. Section 571.5 is amended by adding paragraphs (k)(5) through (k)(8), to read as follows:

§ 571.5 Matter incorporated by reference.

* * * * *

(k) * * *

(5) [Reserved]

(6) Drawing Package, ''NHTSA Anchorage Depth Tool,'' dated August 19, 2013, into § 571.225.

(7) Drawing Package, ''NHTSA Attachment Force Tool,'' dated May 22, 2013, into § 571.225.

(8) Drawing Package, ''NHTSA Clearance Angle Tool,'' dated May 21, 2013, into § 571.225.

* * * * *

■ 3. Section 571.213 is amended by adding S5.6.1.12, revising S5.9(a), S5.9(b) and S5.9(c), and adding Figure 15 and Figure 16 in numerical order, to read as follows:

§ 571.213 Child restraint systems.

* * * * *

S5.6 *Printed Instructions for Proper Use.*

* * * * *

S5.6.1.12 In the case of child restraint systems marked as specified in S5.9 (a) and (b), explain that the markings identify the lower anchorage connectors and the tether anchorage connector, respectively, and that the consumer should look for corresponding marks on the vehicle child restraint anchorage system to attach the appropriate connectors of the child restraint system.

* * * * *

S5.9 *Attachment to child restraint anchorage system.*

(a) Each add-on child restraint, other than a car bed, harness and belt-positioning seat, shall have components permanently attached that enable the restraint to be securely fastened to the lower anchorages of the child restraint anchorage system specified in Standard No. 225 (§ 571.225) and depicted in Drawing Package SAS–100–1000, Standard Seat Belt Assembly with Addendum A or in Drawing Package, ''NHTSA Standard Seat Assembly; FMVSS No. 213, No. NHTSA–213–2003'' (both incorporated by reference, see § 571.5). The connectors must be attached to the add-on child restraint by use of a tool, such as a screwdriver. In the case of rear-facing child restraints with detachable bases, only the base is required to have the connectors. The connectors designed to attach the add-on child restraint to the lower anchorages of the child restraint anchorage system shall be permanently marked with the pictogram in Figure 15. The pictogram is not less than 9 mm in diameter.

(b) In the case of each child restraint system that has components for attaching the system to a tether anchorage, those components shall include a tether hook that conforms to the configuration and geometry specified in Figure 11 of this standard. The tether hook or the tether strap shall be permanently marked with either pictogram shown in Figure 16. If the mark is on the tether strap or on a tag attached to the tether strap, the mark must be located within 25 mm of the tether hardware assembly (which consists of a tether hook and a webbing tightening mechanism designed to tighten or loosen the tether strap).

(c) In the case of each child restraint system that has components, including belt webbing, for attaching to an anchorage of a child restraint anchorage system, the belt webbing shall be adjustable so that the child restraint can be tightly attached to the vehicle. The length of the tether hardware assembly, which consists of a tether hook and a mechanism designed to tighten and loosen the tether strap, shall not exceed 165 mm.

* * * * *

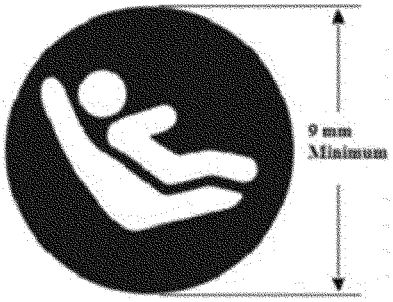

Figure 15--Lower Anchorage Connector Symbol

Notes 1. Drawing not to scale.
2. Symbol may be shown in mirror image.
3. Color of the symbol is at the option of the manufacturer.

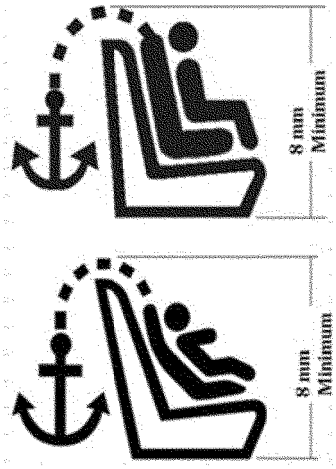

Figure 16--Tether Anchorage Connector Symbol

Notes 1. Drawing not to scale.
2. Symbol may be shown in mirror image.
3. Color of the symbol is at the option of the manufacturer.
4. Either symbol may be marked at the option of the manufacturer.

■ 4. Section 571.225 is amended by:
■ a. Revising S4.2;
■ b. Removing S4.3, S4.4 and S4.5, redesignating S4.6 as S4.3 and revising newly redesignated S4.3;
■ c. Removing S5(e);
■ d. Revising S6.1(a), S6.1(b), S6.2, and removing S6.2.1 through S6.2.2.2;
■ e. Revising S6.3 and removing S6.3.1 through S6.3.4.4;
■ e. Revising the first sentence of S8, the introductory text of S8.1, and removing and reserving S8.2;
■ f. Removing the introductory text of S9, revising S9.1.1(d) and S9.2.2(a), adding S9.2.4 and S9.2.5, and revising S9.5;
■ g. Revising S11, S12(b) and S12(c), and adding S12(d);
■ f. Removing S13 through S16.4;
■ g. Revising Figures 3, 8 and 9, removing and reserving Figures 10, 11, and 19, and adding Figures 24 through 27.

The revised and added text and figures read as follows:

§ 571.225 Child restraint anchorage systems.

* * * * *

S4.2 Vehicles shall be equipped as specified in paragraphs (a) through (c) of this paragraph, except as provided in S5.

(a) Each vehicle with three or more forward-facing rear designated seating positions shall be equipped as specified in S4.2(a)(1) and (2).

(1) Each vehicle shall be equipped with a child restraint anchorage system conforming to the requirements of S6 and S9 at not fewer than two forward-facing rear designated seating positions. At least one of the child restraint anchorage systems shall be installed at a forward-facing seating position in the second row in each vehicle that has three or more rows, if such a forward-facing seating position is available in that row.

(2) Each vehicle shall be equipped with a tether anchorage conforming to the requirements of S6 at a third forward-facing rear designated seating position. The tether anchorage of a child restraint anchorage system may count towards the third required tether anchorage. In each vehicle with a forward-facing rear designated seating position other than an outboard designated seating position, at least one tether anchorage (with or without the lower anchorages of a child restraint anchorage system) shall be at such a designated seating position.

(b) Each vehicle with not more than two forward-facing rear designated seating positions shall be equipped with a child restraint anchorage system conforming to the requirements of S6 and S9 at each forward-facing rear designated seating position.

(c) Each vehicle without any forward-facing rear designated seating position shall be equipped with a tether

anchorage conforming to the requirements of S6 at each front forward-facing passenger seating position.

S4.3 *Movable seats.* (a) A vehicle that is equipped with a forward-facing rear designated seating position that can be moved such that it is capable of being used at either an outboard or non-outboard forward-facing seating position shall be considered as having a forward-facing non-outboard seating position. Such a movable seat must be equipped with a tether anchorage that meets the requirements of S6 or a child restraint anchorage system that meets the requirements of S6 and S9, if the vehicle does not have another forward-facing non-outboard seating position that is so equipped.

(b) Tether and lower anchorages shall be available for use at all times, except when the seating position for which it is installed is not available for use because the vehicle seat has been removed or converted to an alternate use such as allowing for the carrying of cargo.

* * * * *

S6.1 * * *

(a) Consist of a rigid bar of any cross section shape that permits the attachment of a tether hook (of a child restraint system) meeting the configuration and geometry specified in Figure 11 of Standard No. 213 (§ 571.213);

(b) Be accessible without the need for any tools and without folding the seat back or removing carpet or other vehicle components to access the anchorages. However, the tether anchorage may be covered with a cap, flap or cover, provided that the cap, flap or cover is specifically designed to be opened, moved aside or to otherwise give access to the anchorage and is labeled with the symbol shown in Figure 27 of this standard.

* * * * *

S6.2 *Location of the tether anchorage.*

(a)(1) Subject to S6.2(b), the part of each tether anchorage to which a tether hook attaches must be located within the shaded zone shown in Figures 3 to 7 of this standard of the designated seating position for which it is installed. The zone is defined with reference to the seating reference point (see § 571.3). (For purposes of the figures, ''H Point'' means seating reference point.) A tether anchorage may be recessed in the seat back, provided that it is not in the strap wrap-around area at the top of the vehicle seat back. For the area under the vehicle seat, the forwardmost edge of the shaded zone is defined by the intersection of the vehicle floor with a plane that is parallel to the torso line reference plane and which passes through the rearmost point of the bottom of the seat at the centerline of the seat, as shown in Figure 3.

(2) The distance of the tether anchorage from a reference point (SB) obtained by the intersection of a plane parallel to the torso line reference plane that passes through the rearmost point of the seat and the strap wrap-around line from the V-point to the tether anchorage, shall be no less than 165 mm as shown in Figure 8 of this standard. The rearmost point of the seat includes the rearmost point of the head restraint, if a head restraint is present. For adjustable head restraints, the rearmost point of the seat is determined with the head restraint positioned at its highest position. For adjustable head restraints, the strap wrap-around line from the V-point to the tether anchorage shall be routed under the head restraint and between the adjustment bars or adjacent to an adjustment bar. In vehicle seating positions with integrated head restraints or with head restraints that do not provide space under the head restraint to route a tether strap, route the strap wrap-around line from the V-point to the tether anchorage over the head restraint. In seating positions without head restraints, route the strap wrap-around line from the V-point to the tether anchorage over the seat back.

(b) In the case of a vehicle that—

(1) Has a user-ready tether anchorage for which no part of the shaded zone shown in Figures 3 to 7 of this standard of the designated seating position for which the anchorage is installed is accessible without removing a seating component of the vehicle; and

(2) Has a tether strap routing device that is—

(i) Not less than 65 mm behind the torso line for that seating position, in the case of a flexible routing device or a deployable routing device, measured horizontally and in a vertical longitudinal plane; or

(ii) Not less than 100 mm behind the torso line for that seating position, in the case of a fixed rigid routing device, measured horizontally and in a vertical longitudinal plane, the part of that anchorage that attaches to a tether hook may, at the manufacturer's option (with said option selected prior to, or at the time of, certification of the vehicle) be located outside that zone.

(iii) The measurement of the location of the flexible or deployable routing device described in S6.2(b)(2)(i) is made with SFAD 2 properly attached to the lower anchorages. A 40 mm wide nylon tether strap is routed through the routing device and attached to the tether anchorage in accordance with the written instructions required by S12 of this standard. The forwardmost contact point between the strap and the routing device must be within the stated limit when the tether strap is flat against the top surface of the SFAD and tensioned to 55 to 65 N. In seating positions without lower anchorages of a child restraint anchorage system, the SFAD 2 is held with its central lateral plane in the central vertical longitudinal plane of the seating position. The adjustable anchorage attaching bars of the SFAD 2 are replaced by spacers that end flush with the back surface of the SFAD 2.

(iv) The distance from the routing device (where the strap has completely cleared the routing device as shown in Figure 9) to the tether anchorage shall be no less than 165 mm.

S6.3 *Strength requirements for tether anchorages.*

(a) When tested in accordance with S8, the tether anchorage must not separate completely from the vehicle seat or seat anchorage or the structure of the vehicle.

(b) *Provisions for simultaneous and sequential testing.* (1) In the case of vehicle seat assemblies equipped with more than one tether anchorage, the force referred to in S6.3 may, at the agency's option, be applied simultaneously to each of those tether anchorages. However, that force may not be applied simultaneously to tether anchorages for any two adjacent seating positions whose midpoints are less than 400 mm apart, as measured in accordance with S6.3(b)(i) and (ii) and Figure 20.

(i) The midpoint of the seating position lies in the vertical longitudinal plane that is equidistant from vertical longitudinal planes through the geometric center of each of the two lower anchorages at the seating position. For those seating positions that do not provide lower anchorages, the midpoint of the seating position lies in the vertical longitudinal plane that passes through the SgRP of the seating position.

(ii) Measure the distance between the vertical longitudinal planes passing through the midpoints of the adjacent seating positions, as measured along a line perpendicular to the planes.

(2) A tether anchorage of a particular child restraint anchorage system will not be tested with the lower anchorages of that anchorage system if one or both of those lower anchorages have been previously tested under this standard.

* * * * *

S8 *Test procedures.* Each vehicle shall meet the requirements of S6.3

when tested according to the following procedures. * * *

S8.1 Apply the force specified in S6.3 as follows—

* * * * *

S8.2 [Reserved]

S9. *Requirements for the lower anchorages of the child restraint anchorage system.*

* * * * *

S9.1.1 * * *

(d) The bars must not be capable of being stowable or foldable.

* * * * *

S9.2 *Location of the lower anchorages.*

* * * * *

S9.2.2 * * *

(a) Located such that when the lower anchorage depth tool depicted in Drawing Package, ''NHTSA Lower Anchorage Depth Tool,'' dated June 2014 (incorporated by reference; see § 571.5), is attached to the anchorage bar, the 2 cm mark on the tool is visible from a vertical longitudinal plane passing through the center of the bar, along a line making an upward 30 degree angle with a horizontal plane; and

* * * * *

S9.2.4 The lower anchorages shall be located such that no more than 178 N (40 lb) of force is needed to securely attach the tool, depicted in Drawing Package, ''NHTSA Attachment Force Tool,'' dated June 2014 (incorporated by reference; see § 571.5), to an anchorage bar with the tool positioned in at least one angle from 0 degrees to 45 degrees from the horizontal using the procedure in S11(b) of this standard.

S9.2.5 The lower anchorages shall be located such that the tool depicted in Drawing Package, ''NHTSA Clearance Angle Tool,'' dated June 2014 (incorporated by reference; see § 571.5), measures a clearance angle of at least 54 degrees using the procedure in S11(c) of this standard.

* * * * *

S9.5 *Marking and conspicuity requirements.*

S9.5.1 *Requirements for lower anchorages.*

(a) Above each bar installed pursuant to S4, the vehicle shall be permanently marked with a circle that:

(1) Is not less than 13 mm in diameter;

(2) Contains the pictogram shown in Figure 24 of this standard; and

(3) Is located such that its center is on each seat back between 50 and 100 mm above or on the seat cushion 100 ±25 mm forward of the intersection of the vertical transverse and horizontal longitudinal planes intersecting at the horizontal centerline of each lower anchorage, as illustrated in Figure 22. The center of the circle must be in the vertical longitudinal plane that passes through the center of the bar (±25 mm).

(4) The circle may be on a tag.

(b) The bars may be covered by a removable cap or cover, provided that the cap or cover is permanently marked with the pictogram shown in Figure 24. If the cap or cover is permanently attached to the vehicle, the lower anchorage bars are not required to be separately marked with the pictogram. If the cap or cover is not permanently attached to the vehicle, the lower anchorage bars must also be marked with the circle meeting S9.5.1(a)(1) through (a)(3) of this standard.

S9.5.2 *Requirements for tether anchorages.*

(a) For each tether anchorage installed pursuant to S4, there shall be a permanent mark that:

(1) Consists of the pictogram shown in Figure 25 of this standard that is not less than 20 mm in diameter;

(2) The center of the circle in the longitudinal direction must be in the vertical longitudinal plane that passes through the center of the tether anchorage bar (±5 mm), as shown in Figure 26 (Front View) of this standard.

(3) The nearest edge of the mark shall be located not more than 25 mm away from the tether anchorage bar as shown in Figure 26 (Side View) of this standard.

(b) The tether anchorage bar may be covered by a cap or cover that is removable without the use of any tool, provided that the cap or cover is permanently labeled with a mark meeting the requirements of S9.5.2(a)(1). The center of the mark on the cap or cover shall be centered at the middle of the tether anchorage bar, as shown in Figure 27 of this standard. If the cap or cover is permanently attached to the vehicle, the tether anchorage is not required to be separately marked. If the cap or cover is not permanently attached to the vehicle, the tether anchorage must also be marked with the circle meeting S9.5.2(a)(1) through S9.5.2(a)(3) of this standard.

* * * * *

S11. *Test procedures.* Each vehicle shall meet the requirements of this standard when tested according to the following procedures. Where a range of values is specified, the vehicle shall be able to meet the requirements at all points within the range.

(a) *Strength requirements.*

(1) *Forward force direction.* Place SFAD 2 in the vehicle seating position and attach it to the two lower anchorages of the child restraint anchorage system. Do not attach the tether anchorage. A rearward horizontal force of 135 ±15 N is applied to the center of the lower front crossbar of SFAD 2 to press the device against the seat back as the fore-aft position of the rearward extensions of the SFAD is adjusted to remove any slack or tension. Apply a preload force of 500 N horizontally and in the vertical centerline of the SFAD 2 at point X. Increase the pull force as linearly as practicable to a full force application of 11,000 N in not less than 24 seconds and not more than 30 seconds, and maintain at an 11,000 N level for 1 second.

(2) *Lateral force direction.* Place SFAD 2 in the vehicle seating position and attach it to the two lower anchorages of the child restraint anchorage system. Do not attach the tether anchorage. A rearward force of 135 ±15 N is applied to the center of the lower front crossbar of SFAD 2 to press the device against the seat back as the fore-aft position of the rearward extensions of the SFAD is adjusted to remove any slack or tension. Apply a preload force of 500 N horizontal and perpendicular to the longitudinal centerline of the SFAD 2 at point X of the test device. Increase the pull force as linearly as practicable to a full force application of 5,000 N in not less than 24 seconds and not more than 30 seconds, and maintain at a 5,000 N level for 1 second.

(b) *Attachment force.* The seat back angle, if adjustable, is set at the manufacturer's nominal design seat back angle. Remove any lower anchorage cover if present. To measure attachment force, hold the force attachment tool perpendicularly aligned with the center of the lower anchorage. Position the tool at an angle of 0 to 45 degrees from the horizontal, and push the tool towards the lower anchorage. Measure the force needed to engage the tool to the lower anchorage.

(c) *Clearance angle.* The seat back angle, if adjustable, is set at the manufacturer's nominal design seat back angle. Remove any lower anchorage cover if present. To measure clearance angle, attach the clearance angle tool to the lower anchorage and apply a vertical force of 67 N (15 lb) to the tool. Measure the angle (with respect to the horizontal) of the tool while the force is being applied.

* * * * *

S12. *Written instructions.*

* * * * *

(b) In the case of vehicles required to be marked as specified in paragraphs S4.1, S9.5.1 and S9.5.2, explain the

meaning of markings provided to locate the lower anchorages of child restraint anchorage systems and the top tether anchorages;

(c) Include instructions that provide a step-by-step procedure, including diagrams, for properly attaching a child restraint system's tether strap to the tether anchorages; and

(d) Include instructions on how to locate and access the tether anchorage and the lower anchorages.

Figures to § 571.225

* * * * *

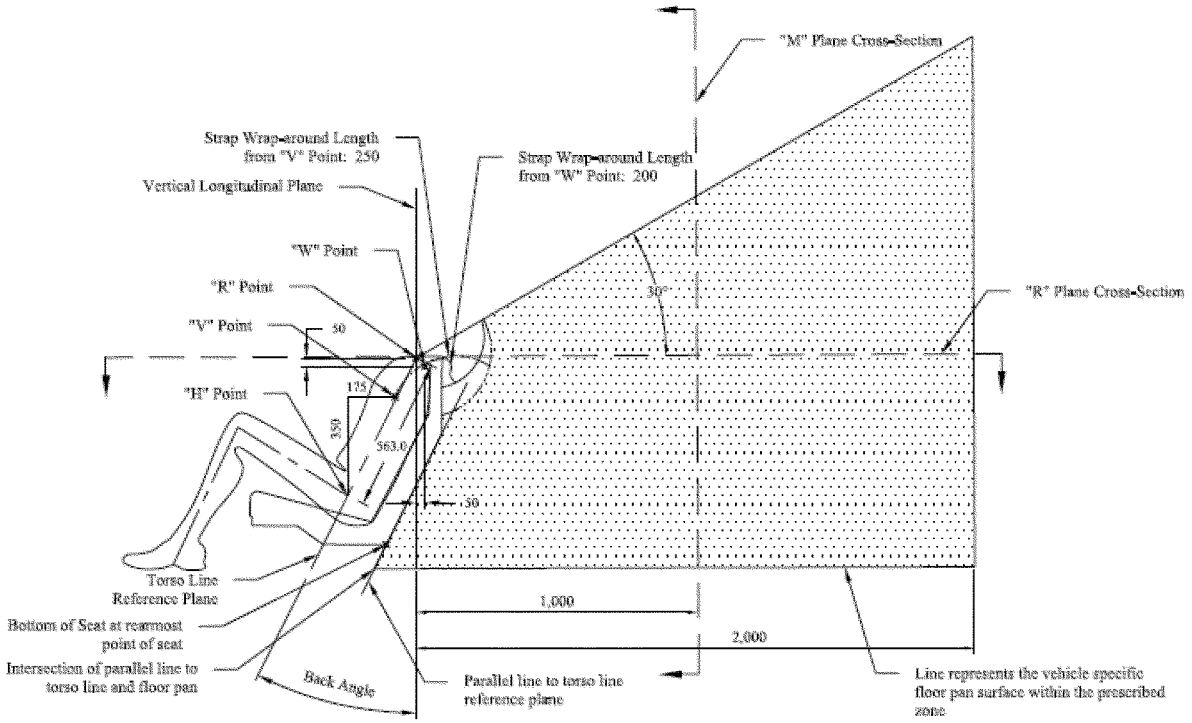

Figure 3 – Side View, User ready Tether Anchorage Location

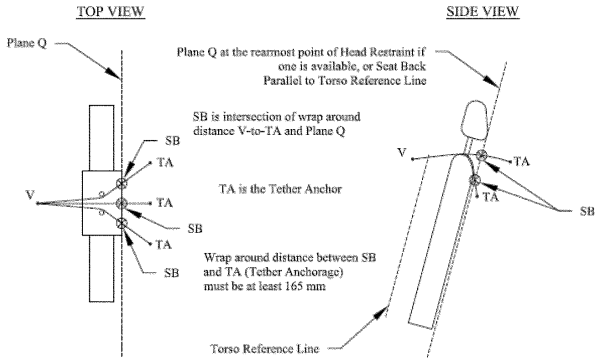

Figure 8. Top view (left) and side view (right) of minimum distance between tether anchorage and point SB.

Notes: SB point is the intersection of the plane parallel to the torso line reference plane that passes through the rearmost point of the vehicle seat, and the strap wrap-around line from the V-point to the tether anchorage.

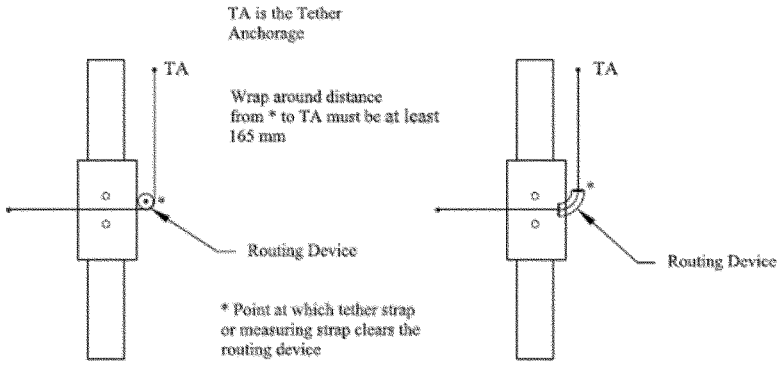

Figure 9. Top view of minimum distance between tether anchorage and routing device.

* * * * *

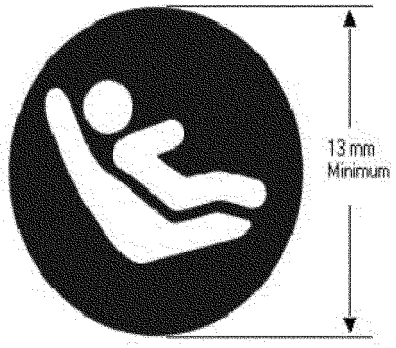

Figure 24 — Lower Anchorage Symbol

Notes: 1. Drawing not to scale.
2. Symbol may be shown in mirror image.
3. Color of the symbol at the option of the manufacturer.

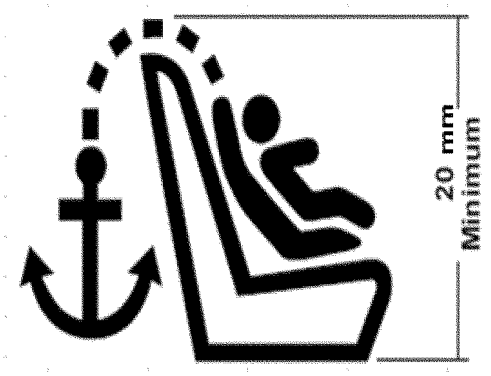

Figure 25 — Tether Anchorage Symbol

Notes: 1. Drawing not to scale.
2. Symbol may be shown in mirror image.
3. Color of the symbol at the option of the manufacturer.

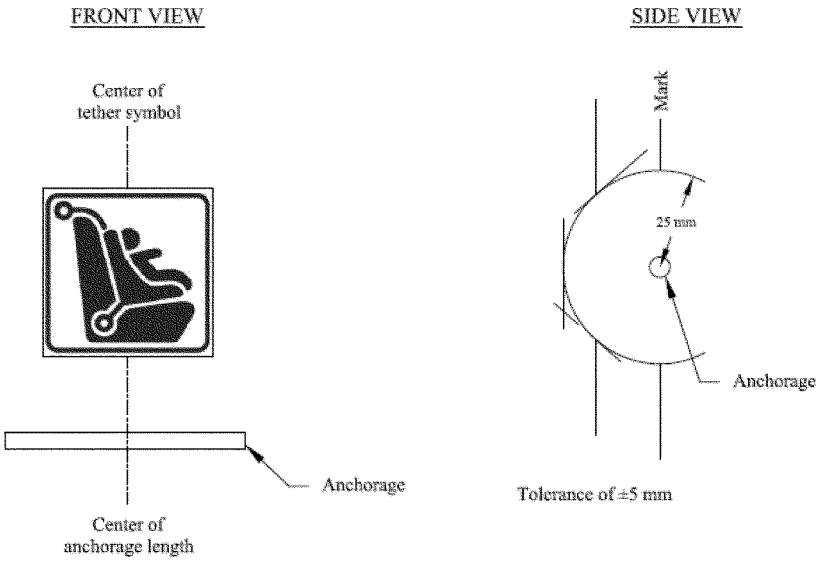

Figure 26. Tether Anchorage Marking Location (No Cover).

(Tolerance of ±5 mm)

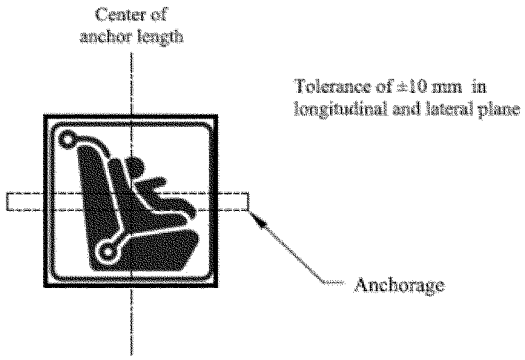

Figure 27. Tether Anchorage Marking Location on Cover

(Tolerance of ±10 mm in the Longitudinal and/or Lateral Plane.)

Note: The following Appendices will not appear in the CFR.

Appendix A: Field Studies

Decina Study—2005

Three years after FMVSS No. 225 was fully phased in and child restraints made to meet the corresponding changes in FMVSS No. 213, NHTSA conducted a survey from April to October 2005 to assess the progress made since 2002 and identify the possible needs for additional steps. See Decina et al., ''Child Restraint Use Survey: LATCH Use and Misuse,'' *supra.*). NHTSA wanted to know whether drivers of vehicles equipped with child restraint anchorage systems were using the systems to secure child restraints to the vehicle seat, and if so, whether they were properly installing the restraints. In the survey, the make/model and the type of restraint installed in each seating position were recorded for each vehicle, and the demographic characteristics and the type of child restraint system were collected for each occupant. In addition, information was gathered about the drivers' knowledge of child restraint anchorage systems, along with their opinions on how easy it was for them to use the systems. The study involved 1,121 children from birth to age 4 in child restraint systems.

Key findings of the survey were:

(a) Of the child restraints located in a seating position equipped with an upper tether anchor, 55 percent were attached to the vehicle using the upper tether.

(b) Among the 87 percent who placed the CRS at a position equipped with lower anchors, 60 percent used the lower attachments to secure the restraint to the vehicle.

(c) In 13 percent of the vehicles equipped with child restraint anchorage systems in which there was a child restraint, the restraint was placed in a seat position not equipped with lower anchors—instead, the vehicle seat belt was used to secure the restraint to the vehicle.

(d) Sixty-one (61) percent of upper tether nonusers and 55 percent of lower anchorage nonusers cited their lack of knowledge—not knowing what the anchorages were, that they were available in the vehicle, the importance

of using them, or how to use them properly—as the reason for not using them.

(e) Of those drivers with experience using both lower anchorages and seat belts: (1) 81 percent of upper tether anchorage users and 74 percent of lower anchorage users said upper tether and/or lower anchorages were easy to use; and (2) 75 percent preferred the lower anchorages over seat belts.

(f) Sixty-one (61) percent of child restraints installed with child restraint anchorage systems were securely installed.

All in all, the Decina study found that consumers who have experience with the child restraint anchorage systems like them. Among consumers having knowledge of both lower anchorages and seat belt attachment, 75 percent preferred using lower anchorages. Further, the report found that child restraint anchorage systems are helping to reduce the incorrect installation of child restraints (61 percent of child restraints installed with child restraint anchorage systems were securely installed, as compared to about 40–46 percent of CRSs installed by seat belts securely installed).

However, the report also indicated that proper use of child restraint anchorage systems is not inherently evident. Many drivers do not use the anchorage system because they do not know about it or understand its purpose. There is also some confusion about where the anchorages can be found. In addition, there were differing degrees of difficulty using the anchorages depending on location and configuration of the CRS hardware.

National Child Restraint Use Special Study—2011 Data

The National Child Restraint Use Special Study (NCRUSS) is a large-scale nationally-representative survey that involves both an inspection of the child passenger's restraint system by a CPST and a detailed interview of the driver.[102] The survey collected information on drivers and their child passengers of ages 0–8 years between June and August 2011. NCRUSS data were collected at 24 primary sampling units (PSUs) across the country. The PSUs were previously established from a separate ongoing data collection effort, the National Automotive Sampling System (NASS). The PSUs are defined geographically, similar to cities or counties. The PSUs were selected to cover urban, rural, and suburban environments and are located in 17 different states.

The survey collected 4,167 observations on children under 9 years of age, of which 268 (weighted percentage = 8.5 percent) were of infant seats with a base, 142 (weighted percentage = 3.6 percent) were of convertible or all-in-one type CRSs installed in rear-facing mode and 1,983 (weighted percentage = 49.6 percent) were of convertible, combination or all-in-one type CRSs installed in forward-facing mode with harness. The remaining observations were of children in other types of restraints including booster seats, seat belts, vests, car beds, etc. The survey also found less than 2 percent of children unrestrained.

For CRSs with internal harnesses, the survey results show that 49 percent of CRSs were installed with lower anchorages, 44 percent were installed with seat belts, and 7 percent with both seat belt and lower anchorages. When the analysis was restricted to only vehicles equipped with child restraint anchorage systems, 61 percent of the CRSs were installed using the lower anchorages and 9 percent with both seat belt and lower anchorages. Decina had found that 55 percent of the harnessed CRSs observed in vehicles with child restraint anchorage systems were attached using the lower anchorages. The NCRUSS study shows a 15 percent increase in the rate of all lower anchorage installations from 2005 to 2011.

As for tether use, for forward-facing CRSs with internal harnesses,[103] tether use was 71 percent when installed with the lower anchorages and 31 percent when installed with seat belts.

Safe Kids Worldwide (Safe Kids) Data

In September 2011, Safe Kids published a study based on 79,000 observations from ''car seat check'' events and appointments that took place between October 1, 2009 and September 30, 2010.[104] Safe Kids developed a standardized checklist that it uses at car seat check events and records how the child and/or child restraint arrived at the event and how the child and/or child restraint left the event. The checklists are then scanned and entered into a database that Safe Kids manages and updates.

The study found that correct installation ranged between 39 to 61 percent for seat belt installations and between 46 to 60 percent for lower anchorage installation. Safe Kids defined correct seat belt installation as one in which the child restraint's manufacturer's instructions were followed and that is in accordance with the Child Passenger Safety Certification Program (CPSCP) [105] best practices, including seat belt routing, tightness (must not move more than 1 inch side to side or front to back when grasped by the belt path) and having a locked seat belt. Correct lower anchorage installation consisted of using the lower anchorages as instructed in both the CRS and vehicle manuals as well as following the CPSCP best practices including: Using correct hardware, using connectors in the right direction, correct identification of the designated lower anchors in the vehicle and installation tightness.

Safe Kids found a 7 percentage point difference in correct use between lower anchorage installations and seat belt installations for infant seats with base, and a 10 percentage point difference in correct use between lower anchorage installations and seat belt installations of forward-facing seats, with lower anchorage installations having the higher rates of correct use. For other rear-facing seats, seat belt installations had a 1 percentage point advantage of correct use compared to installations with lower anchorages.

As for tether use, the study found 59 percent correct tether use in forward-facing CRSs.

We also reviewed Safe Kids sample data from the first quarter of 2012 comprising 17,000 observations. The data showed that 48 percent of CRSs with internal harness were installed with the lower anchorages, 46 percent with the seat belt and 6 percent with both seat belt and lower anchorages in all vehicles (data did not distinguish whether the vehicles were equipped with child restraint anchorage systems). Overall tether usage in forward-facing CRSs with internal harness was only 29 percent. Tether use was 45 percent when the CRS was attached with lower anchorages and 15 percent when the CRS was attached with seat belt.[106]

Appendix B: Summary of 2007 Public Meeting

In response to the 2006 report by Decina et al., supra, NHTSA held a public meeting on February 8, 2007 to bring together child restraint and vehicle manufacturers, retailers, technicians, researchers, and consumer groups to discuss ways to improve child passenger safety through improving CRS designs and increasing the proper use of child restraint systems.[107] Questions were posed to the participants of the public meeting regarding child restraint anchorage system design, ease of use, and approaches to educating the public about proper use.[108] NHTSA solicited comments on design considerations for tether anchorage locations, lower anchorage accessibility, system availability in the center seating position, and design of child restraint hooks and connectors. With respect to child restraint anchorage system ease of use, NHTSA was interested in the development of more user-friendly connectors, consumer information on vehicle child restraint anchorage system hardware, and CRS and vehicle compatibility. As for consumer education, NHTSA wanted to know what types of

[102] National Child Restraint Use Special Study, DOT HS 811 679, *http://www-nrd.nhtsa.dot.gov/Pubs/811679.pdf* (Full report pending).

[103] Rear-facing seats and booster seats are not typically equipped or used with tether straps in the U.S.

[104] ''A Look Inside American Family Vehicles 2009–2010,'' Safe Kids USA (*http://www.safekids.org/assets/docs/safety-basics/safety-tips-by-risk-area/sk-car-seat-report-2011.pdf*).

[105] The National Child Passenger Safety Certification Program certifies individuals as CPSTs. NHTSA assists in developing the curriculum of the certification; the National CPS Board oversees the quality and integrity of the training and certification requirements; and Safe Kids Worldwide functions as the certifying body.

[106] The reduced tether use in the 2012 Safe Kids data compared to NHTSA's NCRUSS study could be attributed to the differences in the two observation samples. The Safe Kids observations are made at seat check stations where caregivers come to seek advice from the CPSTs on correct CRS installation. These caregivers may be novice CRS users or are unsure of the method of CRS installation. Therefore, this convenience sample of observations may be biased towards incorrect or non-ideal CRS installations. On the other hand, the NCRUSS observations are from a stratified sample representative of CRS use and installation in the United States and are designed to be bias-free.

[107] 72 FR 3103, January 24, 2007, notice of public meeting, request for comments.

[108] Id.

questions consumers had and how to spread child restraint anchorage system awareness.

The agency received comments from vehicle manufacturers, child passenger advocacy groups, researchers, and individuals. While the comments and suggestions received on child restraint anchorage system were varied, the main themes were as follows:

Lower Anchorages: There was support for improving the conspicuity, accessibility, and ease of use of the lower anchorages without compromising comfort to adult occupants, and standardizing the location of the lower anchorages.

Markings of Anchorages: There were suggestions for requiring all anchorages to be marked by the International Standards Organization (ISO) symbol regardless of anchorage visibility, requiring similar markings for the CRS connectors, and considering color coded labels to clarify the anchorage locations for each DSP.

Child restraint anchorage system for rear center seat: There was support for requiring a child restraint anchorage system in all rear center seats, or developing provisions to use the inboard anchorages of the outboard seating position for the center seat while taking into consideration the possibility of misuse when two CRSs are connected to the same anchorage.

Child restraint anchorage system for 3rd row seating positions: Some suggested requiring additional child restraint anchorage system-equipped DSPs for vehicles with three or more rows.

Consumer education: There were suggestions on using consistent terminology in education material and developing up-to-date uniform curriculum, requiring that a DVD or Web site be included in the instruction manual for CRS installation, emphasizing the use of tethers and explicitly encouraging the use of child restraint anchorage systems rather than simply listing it as an option for installation.

A more detailed summary of comments received from the 2007 public meeting regarding child restraint anchorage system ease of use is set forth below.

Lower Anchorage Usability

• Advocates for Highway Safety (Advocates), the American Academy of Pediatrics (AAP), and Safe Ride News (SRN) suggested that lower anchors be located farther forward in the seat bight to increase visibility and make installation and removal easier.

• Advocates suggested that lower anchors need to be just as accessible as seat belts. Otherwise, parents will continue to install child restraints with seat belts over the LATCH system.

• SafetyBelt Safe USA (SBS) said that it is more difficult to remove restraints from recessed anchors.

• SRN called for further research into whether hidden lower anchors are a deterrent to using the LATCH system.

• Honda was concerned that moving anchors out of the seat bight would cause occupant discomfort and would necessitate the redesign of some seats. Instead, Honda suggested that there might be a different way to clear space around anchors without moving them forward.

• General Motors (GM) suggested that NHTSA evaluate SAE's lower anchor access design guidelines.

Conspicuity and Identification of Anchors (Marking of Anchors)

• GM, Advocates, AAP, SRN, and the University of Virginia (UVA) recommended that all tethers and lower anchors, regardless of visibility, be conspicuously marked. GM suggested that the industry develop a voluntary agreement to label all tethers with an anchor symbol and all lower anchors with a baby dot symbol. The connectors on the child restraint would also be labeled with the same symbols for easy matching.

• AAP, SRN, and several CPSTs recommended that sets of lower anchors be labeled or color coded to clarify which seating position they serve, especially in the case of overlapping lower anchors.

Tether Anchorage Specifications, Location, and Accessibility

• GM and SRN supported further restriction of the tether zone to eliminate problems associated with tethers located underneath seats and to make tether anchors more accessible. It was also noted that further limitation of this zone would also ensure that child restraints with shorter tether straps would be able to reach the tether anchor.

• Honda recommended that NHTSA gain full understanding of the optimal tether locations for different vehicle configurations before further restricting the zone. It noted that tether anchor locations in many vehicles are limited due to strength requirements.

• Honda recommended that NHTSA consider the comfort, ingress/egress and excursion space of other occupants when determining acceptable tether locations.

• AAP recommended that vehicle manufacturers provide tether locations forward of seats for use with rear-facing seats.

Anchorage System for Center Seat

• GM and Honda recommended that provisions be developed for the use of inboard lower anchors from outboard seats to create a center seat full LATCH system. However, Honda noted that it does not currently encourage this type of use since these anchors often are not set 280 mm (11 in) apart, as specified in FMVSS No. 225. Honda, SBS, GM and SRN recommended that NHTSA research the range of safe distances between lower anchors in order to determine the feasibility of this type of use.

• AAP was concerned that if consumers are given the option of attaching a child seat to the inboard anchors of outboard seats, they will then attach two child restraints to the same lower anchor when installing adjacent restraints. One CPST recommended a solution of making lower anchors smaller in size to discourage parents from attempting to attach multiple restraints to a single anchor.

• Advocates, UVA, and three CPSTs suggested that all center seats be equipped with a full LATCH system.

• AAP, Advocates, and two CPSTs agreed that conflicting information is currently given to parents regarding the center seat position being the ''safest'' and the availability of full LATCH systems in the center seat. The commenters suggested that this discrepancy should be reconciled to avoid confusion when installing seats in the center position. Possible solutions suggested include a dedicated set of center seat anchors or built-in center seat child restraints.

Full LATCH for 3rd Row Seat Positions

• SRN and SBS suggested that the minimum number of full LATCH systems for a vehicle with three rows be increased. They thought that providing more LATCH systems per vehicle could reduce the number of incidences where multiple restraints are attached to a single anchor.

Consumer Education

• AAP advised against inconsistent vocabulary, recommending that NHTSA clarify certain terminology, such as ''LATCH'' referring to the entire system rather than just the lower anchorages.

• Cohort 22 and UVA suggested that either a DVD or a Web site link be included in instruction manuals to provide users an installation video that would better clarify what a ''tight fit'' means.

• Honda suggested making a tether strap routing procedure available to consumers.

• AAP believed that the importance of the tether in the LATCH system must be emphasized to consumers. SRN recommended that manuals explicitly encourage the use of LATCH rather than simply listing it as an option for installation.

• GM, Honda, SRN, and a CPST emphasized the importance of consumer education and public awareness of LATCH. SRN suggested that an up-to-date and uniform curriculum of information be developed so that the information given to parents and caregivers is consistent from all sources (*e.g.* hospitals, police, and doctors).

Appendix C: Other Usability Efforts

International Organization for Standardization (ISO)

ISO, a worldwide voluntary federation of ISO member bodies, is drafting an approach toward improving the usability of a child restraint anchorage system called ''ISOFIX.'' [109] (ISO 29061–1:2010, Road vehicles—Methods and criteria for usability evaluation of child restraint systems and their interface with vehicle anchorage systems—Part 1: Vehicles and child restraint systems equipped with ISOFIX anchorages and attachments.) The draft ISO approach uses a rating system and criteria to provide child restraint and vehicle manufacturers with a tool for the assessment of the usability of ISOFIX systems. ISO also provides consumers (parents and caregivers) with information to assist them in selecting a CRS and vehicle with ISOFIX systems that are easy to use, with the aim that the information will result in more correct installations.

The ISO approach evaluates and rates the usability of the CRS's ISOFIX features, the

[109] ISOFIX is a system, mostly used in Europe, for the connection of child restraint systems to vehicles. The system has two vehicle rigid anchorages, two corresponding rigid attachments on the child restraint system and a means to limit the pitch rotation of the child restraint system.

vehicle's ISOFIX system, and the interaction between the two. While the ISOFIX system is not used in the U.S., the system is very similar to the FMVSS No. 225 child restraint anchorage system and therefore, the evaluation developed by ISO can mostly be applied to our systems. The vehicle assessment with this methodology include the instructions on how to identify the number and location of ISOFIX-equipped seating positions, the visibility and labeling of the ISOFIX anchorages, the proximity of hardware equipment to the tether anchorage that could be mistakenly used to attach the tether, and interference between lower anchorages and seat belt equipment. The interaction between the vehicle and CRS is evaluated using the criteria listed in Table 2.

The ISOFIX systems of the CRS, vehicle, and the interaction between the two are rated using a weighted scoring system with the weights corresponding to the importance of each criterion for improving ease of use and correct installation. Each criterion is rated on a 3 point scale where a rating of good, average, and poor are given a score of 3, 1, and 0, respectively. The importance of each criterion is also rated on a 3 point scale ranging from 1 to 3, with 3 being the most important.

TABLE 2—CRITERIA ITEMS IN FORM 3 OF ISO 29061–1:2010 WITH SCORING SYSTEM

[CRS and vehicle interaction]

	Score Good, average and poor (3/1/0 points respectively)	Importance (A,B,C = 3/2/1 points respectively)
3.1.1 Using the CRS, are the prepared vehicle ISOFIX anchorages accessible during the connecting process (*i.e.*, is it possible to use them?)		
3.1.2 ISOFIX anchorages accessible during installation process?		
3.1.3 Is there clear feedback that the CRS is correctly attached to the ISOFIX anchorages?		
3.1.4 Can the ISOFIX attachments be tightened after the initial connection to the lower anchorages?		
3.1.5 Flexible attachments only: When properly installed, no hidden slack can exist in lower attachments.		
3.1.6 Is the child harness fully operable when ISOFIX is installed properly?		
3.2.1 Actions required to attach the tether to the tether anchorage?		
3.2.2 Can tether be tightened properly?		
3.2.3 Is there clear feedback that the child restraint system is correctly attached to the tether anchorage?		
3.3.1 Actions required to adjust the primary anti-rotational device to the correct position (*e.g.*, a support leg in a rearward installation)?		
3.3.2 Actions required to operate any secondary anti-rotational device(s) [*e.g.*, a rebound bar, or rebound tether(s), in a rearward installation]?		
3.4.1 CRS and base preparation: CRS Base and CRS shell ready for installation?		
3.4.2 Actions required to attach the CRS shell to base?		
3.4.3 Is there a clear feedback of correct locking of the CRS to the base?		
3.4.4 Actions required to detach CRS from base?		
3.5.1 Ease of releasing tension of tether?		
3.5.2 Actions required to detach and store the tether strap after tension has been released?		
3.5.3 Ease of releasing tension of flexible CRS attachments?		
3.5.4 Actions required to remove and store the primary anti-rotational device?		
3.5.5 Actions required to remove and store any secondary anti-rotational device(s)?		
3.5.6 Actions required to detach the attachments from the ISOFIX anchorages?		

b. Society of Automotive Engineers (SAE) Recommended Practice (Draft)

A draft SAE recommended practice entitled J2893,[110] ''Guidelines for Implementation of the Child Restraint Anchorage System in Motor Vehicles and Child Restraint Systems,'' developed by SAE's Child Restraint Systems Standards Committee, provides guidelines to vehicle manufacturers for certain characteristics of vehicle lower and upper (tether) anchorages, and to CRS manufacturers for corresponding features of CRS lower anchorage and tether connectors, so that each of their products can be made more compatible with the other. SAE developed tools and procedures for evaluating the child restraint anchorage system hardware features in vehicles and child restraints. The eleven guidelines include the following:

Can the child restraint fixture attach to the lower anchors?

Is the force to attach lower anchors less than 75 Newton (N) (16.9 pound (lb))?

Is the clearance angle as measured with a specified angle measurement tool greater than 75 degrees?

When resting unattached on the vehicle seat, is the lateral angle of the child restraint fixture less than 5 degrees?

When installed on the lower anchors, is the pitch angle of the child restraint between 5 and 20 degrees?

Does a specified collinearity tool attach to the lower anchors?

Does a specified angle measurement tool contact any rigid structure around the lower anchors?

When installed, is the distance from the Z-point on the child restraint fixture to the seat cushion less than 51 mm?

Are tether anchors marked with the ISO Symbol?

Are lower anchors marked with the ISO symbol?

If a tether router is present, does it accommodate a specified tether hardware assembly clearance tool?

c. NCAP's Pending Vehicle-CRS Fit Program

On February 25, 2011,[111] NHTSA published a request for comments on the agency's plan to adopt a new consumer information program that would be part of the agency's New Car Assessment Program (NCAP). The intent of the program is to make it easier for consumers to obtain a CRS that fits well in their vehicle. (76 FR 10637, February 25, 2011, Docket No NHTSA–2010–0062.)

NHTSA proposed the Vehicle-CRS Fit program to be a voluntary program, in which NHTSA would make available to consumers information provided by vehicle manufacturers as to the specific CRSs that fit in specific vehicle models. NHTSA developed a set of criteria to define what constitutes an acceptable ''fit'' under the program. The plan was for vehicle manufacturers to use the criteria to assess the fit of child restraints in their vehicles and determine which CRSs can be identified as fitting the vehicle. The vehicle manufacturers

[110] The SAE J2893 Version 1–Draft 7 was used for the UMTRI study. Any mention of the SAE J2893 recommendations throughout this document will refer to this draft version of the guidelines which are still under development.

[111] 76 FR 10637, February 25, 2011 request for comment, Docket No NHTSA–2010–0062. NHTSA is in the process of considering the next steps for the program.

would provide this information to NHTSA, and NHTSA in turn would post this information on the agency's NCAP Web site, *www.safercar.gov.*

The agency proposed that part of the assessment of an adequate fit would evaluate the interface of the CRS with the child restraint anchorage system. The agency proposed that the following criteria be included in evaluating the fit of a CRS in a vehicle:

Whether the tether of the CRS can be attached to the tether anchorage;

Whether the tether can be properly tightened once attached to the tether anchorage;

Whether the lower anchorage connectors on the CRS can be properly attached to the vehicle's lower anchorages;

Whether the lower anchorage connectors on the CRS can be tightened (if necessary) once connected to the lower anchorages;

Whether the seat belt buckles for adjacent seating positions are available for use by other passengers after the CRS is installed in the vehicle using the lower anchorages of a child restraint anchorage system; and

Whether the upper weight limit of the CRS is less than the upper weight limit specified for the vehicle's lower anchorages.

NHTSA envisioned that consumers would use the information on the *safecar.gov* Web site to see the CRSs that the vehicle manufacturer has said will fit a particular vehicle. As part of the program, NHTSA would conduct spot-checks of the manufacturers' information to verify that the identified CRSs do meet the fit criteria of the program.

Issued on: January 5, 2015.

R. Ryan Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2015–00162 Filed 1–22–15; 8:45 am]

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Part III

Department of Transportation

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, 172 et al.
Hazardous Materials: Miscellaneous Amendments (RRR); Proposed Rule

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, 172, 173, 175, 176, 177, 178, 179 and 180

[Docket No. PHMSA–2013–0225 (HM–218H)]

RIN 2137–AF04

Hazardous Materials: Miscellaneous Amendments (RRR)

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: PHMSA proposes to make miscellaneous amendments to the Hazardous Materials Regulations to update and clarify certain regulatory requirements. These proposed amendments are designed to promote safer transportation practices, address petitions for rulemaking, respond to National Transportation Safety Board (NTSB) Safety Recommendations, facilitate international commerce, make editorial corrections, and simplify the regulations. The proposed provisions in this rulemaking include, but are not limited to, removing the packing group (PG) II designation for certain organic peroxides, self-reactive substances and explosives, incorporating requirements for trailers of manifolded acetylene cylinders, and providing requirements to allow for shipments of damaged wet electric batteries. In addition, this rulemaking proposes to revise the requirements for the packaging of nitric acid, testing of pressure relief devices on cargo tanks, and shipments of black or smokeless powder for small arms.

DATES: Comments must be received by March 24, 2015.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Dockets Management System; U.S. Department of Transportation, Dockets Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* To U.S. Department of Transportation, Dockets Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: Include the agency name and docket number PHMSA–2013–0225 (HM–218H) or rule identification number (RIN 2137–AF04) for this rulemaking at the beginning of your comment. Note that all comments received will be posted without change to *http://www.regulations.gov* including any personal information provided. If sent by mail, comments must be submitted in duplicate. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard.

Privacy Act: Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement at *http://www.dot.gov/privacy*.

Docket: You may view the public docket through the Internet at *http://www.regulations.gov* or in person at the Docket Operations office at the above address (See **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Neal Suchak or Aaron Wiener, Standards and Rulemaking Division, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Contents

I. Background

The purpose of this NPRM is to update and clarify the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) based on PHMSA's own initiatives. The proposed changes were identified through an extensive review of the HMR and letters of interpretation issued to the public. In addition, this NPRM proposes regulatory requirements that respond to seven petitions for rulemaking and addresses two NTSB Safety Recommendations. To this end, PHMSA is proposing to revise, clarify, and ease certain regulatory requirements.

A. Petitions for Rulemaking

The following table provides a brief summary of the petitions addressed in this NPRM and affected sections. These petitions are included in the docket for this proceeding:

Petition	Petitioner	Summary
P–1590	Dangerous Goods Advisory Council (DGAC).	Remove the PG II designation for certain organic peroxides, self-reactive substances and explosives in the § 172.101 Hazardous Materials Table (HMT).
P–1591	Air Products and Chemicals, Inc	Amend the marking requirements for poisonous by inhalation shipments transported in accordance with the International Maritime Dangerous Goods (IMDG) Code or Transport Canada's Transport of Dangerous Goods (TDG) Regulations (§ 171.23).
P–1597	DGAC	Require that emergency response telephone numbers be displayed on shipping papers numerically (§ 172.604).
P–1601	United Parcel Service (UPS)	Amend the packaging instructions for certain shipments of nitric acid by requiring intermediate packaging for glass inner packagings (§ 173.158).
P–1604	National Propane Gas Association (NPGA).	Extend the pressure test and internal visual inspection test period to ten years for certain MC 331 cargo tanks in dedicated propane delivery service (§ 180.407).
P–1605	Compressed Gas Association (CGA).	Incorporate by reference in § 171.7 CGA Pamphlet G–1.6, *Standard for Mobile Acetylene Trailer Systems, Seventh Edition* (§§ 171.7 and 173.301).

Petition	Petitioner	Summary
P–1609	Truck Trailer Manufacturers Association (TTMA).	Clarify the requirements applicable to the testing of pressure relief devices for cargo tank motor vehicles (§ 180.407).

B. NTSB Safety Recommendations

The following table provides a brief summary of the NTSB recommendations addressed in this NPRM and affected sections. These recommendations are included in the docket for this proceeding:

Recommendation	Summary
H–09–01	Modify 49 CFR § 173.301 to clearly require (1) that cylinders be securely mounted on mobile acetylene trailers and other trailers with manifolded cylinders to reduce the likelihood of cylinders being ejected during an accident and (2) that the cylinder valves, piping, and fittings be protected from multidirectional impact forces that are likely to occur during highway accidents, including rollovers.
H–09–02	Require fail-safe equipment that ensures that operators of mobile acetylene trailers can perform unloading procedures only correctly and in sequence.

C. Amendments Based on PHMSA Review

In addition to addressing the petitions for rulemaking and the NTSB recommendations listed above, this rulemaking proposes the following amendments that were identified through our retrospective review of the 49 CFR. We summarize the changes as follows:

- Revise § 107.402(d)(2) to replace the term ''citizen'' with the term ''resident.''
- Revise § 107.402(e) to require that a lighter certification agency submits a statement that the agency is independent of and not owned by a lighter manufacturer, distributor, import or export company, or proprietorship.
- Revise § 107.402(f) to require portable tank and multi-element gas container (MEGC) certification agencies to submit a statement indicating that the agency is independent of and not owned by a portable tank or MEGC manufacturer, owner, or distributor.
- Revise § 107.807 to require a cylinder inspection agency to be independent of and not owned by a cylinder manufacturer, owner, or distributor.
- Remove the entry for CGA Pamphlet C–1.1 in Table 1 to § 171.7.
- Incorporate by reference updated versions of the American Association of Railroads (AAR) Manual of Standards and Recommended Practices, Section C–III, Specifications for Tank Cars, Specification M–1002 in § 171.7.
- Revise the § 172.101 table to add Special Provision B120 to Column (7) for the entry ''Calcium nitrate, UN1454.''
- Revise the entry for ''Propellant, solid, UN0501'' to remove vessel stowage provision 24E from Column (10B) of the HMT.
- Revise the PG II HMT entry for ''UN2920, Corrosive liquids, flammable, n.o.s.,'' to for consistency with the UN Model Regulations, IMDG Code, and the ICAO TI such that this entry is eligible for the limited quantity exceptions.
- Revise the PG II HMT entry for ''UN3085, Oxidizing solid, corrosive, n.o.s.'' for consistency with the UN Model Regulations, IMDG Code and the ICAO TI such that this entry is eligible for the limited quantity exceptions.
- Revise the HMT entries for ''Trinitrophenol (picric acid), wetted, *with not less than 10 percent water by mass,* UN3364'' and ''Trinitrophenol, wetted *with not less than 30 percent water, by mass,* UN1344'' to harmonize the HMR with the UN Model Regulations, IMDG Code, and the ICAO TI to clarify that the 500 gram limit per package does not apply to UN1344 but does apply to UN3364.
- Revise Special Provision 136, assigned to the proper shipping name ''UN3363, Dangerous goods in machinery or apparatus,'' in § 172.102 to include reference to Subpart G of Part 173.
- Remove reference to obsolete Special Provision 18 for the HMT entry ''UN1044, Fire extinguishers'' and in § 180.209(j) and provide correct cross reference to § 173.309.
- Correct a reference in § 172.201 to exceptions for the requirement to provide an emergency response telephone number on a shipping paper.
- Revise §§ 172.301(f), 172.326(d) and 172.328(e) to include the clarification that the NOT–ODORIZED or NON–ODORIZED marking may appear on packagings used for both unodorized and odorized liquefied petroleum gas (LPG), and remove the effective date of October 1, 2006 or ''after September 30, 2006,'' if it appears in these paragraphs, as the effective date has passed.
- Amend § 172.406(d) by clearly authorizing the use of labels described in Subpart E with a dotted or solid line outer border on a surface background of contrasting color.
- Update a mailing address in § 172.407(d)(4)(ii).
- Clarify the marking size requirements for an intermediate bulk container (IBC) that is labeled instead of placarded by replacing the bulk package marking reference in § 172.514(c) with the non-bulk marking reference, specifically, § 172.301(a)(1).
- Revise § 173.4a(a) to clarify that articles (including aerosols) are not eligible for excepted quantity reclassification under § 173.4a, although some are eligible to be shipped as small quantities by highway and rail in § 173.4.
- Revise § 173.21(e) to prohibit transportation or offering for transportation materials in the same transport vehicle (*e.g.,* a trailer, a rail car) with another material, that could cause a dangerous evolution of heat, flammable or poisonous gases or vapors, or produce corrosive materials if mixed.
- Clarify that the requirements provided in paragraph § 173.24a(c)(1)(iv) do not apply to limited quantities packaged in accordance with § 173.27(f)(2).
- Clarify the quantity limits for mixed contents packages prepared in accordance with § 173.27(f)(2).
- Clarify the requirements applicable to bulk transportation of combustible liquids by adding new subparagraph § 173.150(f)(3)(xi) stating that the registration requirements in Subpart G of Part 107 are applicable and revising §§ 173.150(f)(3)(ix) and 173.150(f)(3)(x) for punctuation applicable to a listing of requirements.
- Add a new paragraph (j) in § 173.159 to allow shippers to prepare for transport and offer into transportation damaged wet electric storage batteries.

• Revise § 173.166(e)(6) to add the words ''or cargo vessel.''

• Revise §§ 173.170 and 173.171 by changing the term motor vehicle to transport vehicle to allow for motor vehicles comprised of more than one cargo-carrying body to carry 100 pounds of black or smokeless powder reclassed as Division 4.1 in each cargo-carrying body instead of 100 pounds total in the motor vehicle.

• Revise § 173.199(a)(4) by removing the reference to the steel rod impact test in § 178.609(h).

• Clarify the Packing Method table for organic peroxide materials in § 173.225.

• Amend the bulk packaging section reference in Column (8C) of the HMT from § 173.240 to § 173.216 for the entries ''Asbestos, NA2212,'' ''Blue asbestos *(Crocidolite) or* Brown asbestos *(amosite, mysorite)* UN2212,'' and ''White asbestos *(chrysotile, actinolite, anthophyllite, tremolite),* UN2590.'' In addition, we are proposing to revise paragraph (c)(1) in § 173.216 by authorizing the use of bulk packages prescribed in § 173.240.

• Add a new paragraph (d)(5) to § 173.304a, a new paragraph (h) to § 173.314 and revise § 173.315(b)(1) to require odorization of liquefied petroleum gas when contained in cylinders and rail cars.

• Amend § 173.306(k) to clarify that aerosols shipped for recycling or disposal by motor vehicle containing a limited quantity are afforded the applicable exceptions provided for ORM–D materials granted under §§ 173.306(i) and 173.156(b).

• Create a new paragraph (d) in § 175.1 stating that the HMR do not apply to dedicated air ambulance, firefighting, or search and rescue operations.

• Correct § 175.8 by adding the appropriate 14 CFR, Part 125 citations.

• Clarify exceptions for passengers, crewmembers, and air operators in paragraphs (a)(18), (a)(22), and (a)(24) of § 175.10 for the carriage of hazardous materials aboard a passenger aircraft.

• Clarify § 175.75(e)(2) by replacing the word ''located'' with ''certificated.''

• Clarify § 176.30(a)(4) by replacing the word ''packaging'' with ''package.''

• Clarify that the loading restrictions in § 177.835(c)(1) through (4) are applicable to § 177.848(e).

• Revise § 178.65(i)(1) to correctly reference the manufacturer's report requirements in § 178.35(g).

• Clarify § 178.337–17(a) to eliminate confusion of the name plate and specification plate requirements.

• Correct an editorial error in the formula in § 178.345–3(c)(1).

• Include provisions consistent with the non-bulk packaging and IBC approval provisions for Large Packagings in § 178.955.

• Clarify the requirements for Federal Railroad Administration (FRA) approval of tank car designs in § 179.13.

• Revise § 180.401 to replace the term ''person'' with ''hazmat employee or hazmat employer'' to clarify that Subpart E of Part 180 does not only apply to persons offering or transporting hazardous materials.

II. Incorporation by Reference Discussion Under 1 CFR Part 51

The *American Association of Railroads (AAR) Manual of Standards and Recommended Practices, Section C–III, Specifications for Tank Cars, Specification M–1002* and the Compressed Gas Association (CGA) pamphlet G–1.6, *Standard for Mobile Acetylene Trailer Systems, Seventh Edition (G–1.6, 2011)* are available for interested parties to purchase in either print or electronic versions through the parent organization Web sites. The price charged for these standards to interested parties helps to cover the cost of developing, maintaining, hosting, and accessing these standards. The specific standards are discussed in greater detail in the following analysis.

III. Petitions for Rulemaking and National Transportation Safety Board Recommendations

A. Amendments to the HMR for Organic Peroxides, Self-Reactive Substances and Explosives (P–1590)

In P–1590, DGAC requests that PHMSA amend the HMR by removing the PG II designation in Column (5) of the § 172.101 HMT for all organic peroxides (Division 5.2), self-reactive substances (Division 4.1), and explosives (Class 1). DGAC states that under both the HMR and international regulations, organic peroxides, self-reactive substances and explosives are not assigned a packing group. Despite the absence of regulatory language for determining a packing group assignment for these materials, proper shipping names for these materials listed in the HMT are assigned a default PG II. DGAC asserts that the presence of a PG assignment for these entries is a constant source of confusion which leads to frustration of shipments. DGAC further indicates that frustration typically occurs when shipping papers are inspected by carrier staff and enforcement personnel along the transport chain with respect to the § 172.202(a)(4) requirement to include the ''packing group in Roman numerals, as designated for the hazardous material in Column (5) of the § 172.101 table.''

DGAC notes that while § 172.202(a)(4) also excepts organic peroxides, self-reactive substances and explosives from the requirement to provide a PG as part of the required description, a great deal of confusion is created given that, irrespective of this exception, PGs are provided for these materials in the § 172.101 HMT. DGAC also states that the HMR are inconsistent with international regulations as a PG is not indicated for these materials in the hazardous materials tables in the ICAO TI, IMDG Code, and the UN Model Regulations. In addition, those regulations restrict the provision of a PG in the transport document basic description to materials where a PG has been assigned in accordance with classification requirements. With no PG indicated for these substances in the respective lists, it is inappropriate to provide a PG in the hazardous materials description on a shipping paper under international regulations. Consequently, provision of a PG for domestic transportation would constitute a violation of international regulations for international transportation.

DGAC states that removing the PG for these materials from the HMT would impose no additional costs and would result in a net savings since many unnecessary delays in hazardous material shipments would be avoided. DGAC did not provide a specific figure for the anticipated net savings.

DGAC also states that the packaging provisions in Part 173 for these materials indicate the level of performance required. Therefore, although certain packagings must meet PG II performance levels, they do not indicate a degree of danger or the variation to PG I or PG III packagings.

In response to DGAC's petition, PHMSA agreed that it merited a rulemaking change. We recognize that when the PG does not relate to the degree of hazard of the material based on classification criteria but rather is broadly assigned to an entire group of materials for purposes of applying regulatory requirements, there is limited value in requiring an indication of the PG on a shipping paper. Therefore PHMSA is proposing to remove the PG II designation from Column (5) of the HMT for organic peroxides (Division 5.2), self-reactive substances (Division 4.1), and explosives (Class 1). PHMSA seeks comment on the safety implications of such a change as well as the net benefit such a change (*i.e.,* decrease in the number of frustrated shipments) would provide.

B. Marking Requirements for Poison by Inhalation Materials (P–1591)

In P–1591, Air Products and Chemicals, Inc., requests that PHMSA amend the marking requirements for poison inhalation hazard (PIH) materials that are shipped in accordance with the IMDG Code or TDG Regulations. Specifically, the petitioner requests that PHMSA modify §§ 171.23(b)(10)(iv)(A) and 171.23(b)(10)(iv)(B) to remove the phrase ''regardless of the total quantity contained in the transport vehicle or freight container'' in both paragraphs to align Part 171, Subpart C requirements for use of international regulations with the poisonous hazardous material marking requirements in § 172.313(c), which offers exceptions based on Hazard Zone, quantity, and number of distinct materials.

Specifically, subpart C of Part 171 specifies requirements for shipments offered for transportation or transported in the United States under international regulations. For PIH material, subparagraphs (A) and (B) of § 171.23(b)(10)(iv) require that ''the transport vehicle or freight container must be marked with the identification numbers for the hazardous material, regardless of the total quantity contained in the transport vehicle or freight container, in the manner specified in § 172.313(c) of this subchapter and placarded as required by subpart F of part 172 of this subchapter.'' The petitioner states that the phrase ''regardless of the total quantity contained in the transport vehicle or freight container'' gives the appearance that the identification number marking requirement is applicable to any quantity. However, the remainder of the sentence states that the marking must be ''in the manner specified in in § 172.313(c) of this subchapter,'' which indicates an entirely different requirement.

Section 172.313(c) specifies marking requirements for non-bulk packages of PIH material contained in transport vehicles or freight containers subject to certain provisions and limitations. Section § 172.313(c)(2) states, ''the transport vehicle or freight container is loaded at one facility with 1,000 kg (2,205 pounds) or more aggregate gross weight of the material in non-bulk packages marked with the same proper shipping name and identification number'' meaning that unless this criteria is met, marking the identification number on the transport vehicle or freight container is not required. The petitioner indicates the inconsistency of §§ 171.23(b)(10)(iv)(A), 171.23(b)(10)(iv)(B) and 172.313(c) is a source of confusion.

The petitioner also identifies a potential discrepancy when transporting internationally to or from the United States in accordance with § 171.23. The requirement to mark all quantities of PIH material is more restrictive and costly than the current marking requirements for the same materials when transported domestically under the HMR in accordance with § 172.313(c). The petitioner points out that under both the IMDG and TDG there are no additional marking requirements for transport units carrying PIH materials in non-bulk packages similar to the provisions found in § 172.313(c). Therefore, for quantities of PIH materials in non-bulk packages (less than 1,000 kg per UN number) all three regulations are not aligned.

The petitioner states they have had numerous shipments of PIH materials frustrated because of this confusing requirement, and that the additional marking causes economic hardship and transit delays due to additional labor necessary to apply the extra UN identification numbers at the port. The petitioner did not provide a specific cost figure for these frustrated shipments or anticipated net savings of a regulatory change.

In response to Air Products' petition, PHMSA agreed that it merited a rulemaking change. The intent of the requirements in § 171.23(b)(10)(iv) is to provide hazard communication for international shipments of PIH materials transiting the United States under either the IMDG Code or TDG equivalent to those established in the HMR, not to impose more restrictive requirements. The removal of the phrase referring to a ''total quantity'' will reduce potential confusion due to differences in inspection interpretations and will reduce handling costs and transit time while maintaining an acceptable level of hazard communication for PIH materials. Therefore, PHMSA is proposing to amend §§ 171.23(b)(10)(iv)(A) and 171.23(b)(10)(iv)(B) by removing the phrase ''regardless of the total quantity contained in the transport vehicle or freight container'' from each subparagraph. PHMSA seeks comment on the safety implications of such a change as well as the net benefit such a change (*i.e.,* decrease in the number of frustrated shipments) would provide.

C. Emergency Response Telephone Number (P–1597)

In P–1597, DGAC requests that PHMSA amend the emergency response telephone number requirements to prohibit the use of alphanumeric telephone numbers and only permit numeric telephone numbers. Currently, the HMR do not limit the telephone numbers to be numeric under § 172.604(a). DGAC states that historically telephone faces associated integers with letters (*e.g.,* 2^{ABC}), but this is no longer the case in all instances of phones. As a result, emergency response telephone numbers presented alphanumerically could cause delays in acquiring emergency response information as the first responder would have to first convert letters to numbers. These delays are undesirable in time sensitive emergency response situations.

DGAC further points out that PHMSA issued a letter of interpretation (Ref. No. 04–0032) confirming that alphanumeric presentation of an emergency response telephone number was acceptable but expressed concern in the delays it may cause.

In response to DGAC's petition, PHMSA agreed that it merited a rulemaking change. We agree that the continued use of alphanumeric telephone numbers could cause unnecessary delays in emergency response situations, therefore, PHMSA is proposing to revise § 172.604(a) to require a numeric format for the presentation of emergency response telephone numbers in association with a shipping paper. Additionally, we request specific comment on the cost implications of this proposed revision.

D. Packaging Requirements for Nitric Acid (P–1601)

In P–1601, the United Parcel Service (UPS) requests that PHMSA revise the packaging requirements for ground shipments of nitric acid. Its petition was based on four loading and sorting operation incidents which occurred over a six-month period. The incidents did not result in any casualties, but varying degrees of property damage were assessed in each situation. UPS notes that each incident involved the same packaging configuration—glass inner packagings within fiberboard outer packagings. In each case, a breach of one or more inner packagings caused leakage, resulting in fumes, followed by the initiation of a fire involving the fiberboard outer packaging material. UPS believes that the packaging requirements of the HMR applicable to ground shipments of nitric acid do not adequately address the hazards present.

As provided in § 173.158, packaging for ground shipments of nitric acid prescribe either outer packaging that is not reactive to contents, or a combination packaging that includes non-reactive intermediate packaging

and absorbent material. However, for concentrations of less than 90% nitric acid, the HMR permit the use of glass inner packagings of less than 2.5 L placed inside UN Specification 4G, 4C1, 4C2, 4D or 4F outer packagings. This latter configuration is associated with the four incidents referenced by UPS in its petition for rulemaking.

UPS proposes that PHMSA change § 173.158(e) to enhance the packaging requirements applicable to nitric acid in concentrations less than 90%. Under the proposal in P–1601, when in wooden or fiberboard outer packaging, glass inner packagings used in the configuration prescribed in § 173.158(e) would be required to be packed in tightly-closed, non-reactive intermediate packagings and cushioned with a non-reactive absorbent material. UPS feels that the addition of this intermediate packaging would properly address the hazards present in this concentration of nitric acid and would have prevented the above incidents from occurring.

The UPS petition identified an increase in the number of fires caused by spilled nitric acid reacting with fiberboard packaging. In this NPRM, PHMSA is considering a performance standard for packaging and handling the product that would prevent breakages and spills involving nitric acid. Based on the number of incidents noted in the petition for rulemaking and the cost incurred, in response to UPS's petition, PHMSA agreed that it merited consideration of a rulemaking change. Therefore, PHMSA is proposing to require in § 173.158(e) that when nitric acid, in concentrations less than 90%, is placed in glass inner packagings to be packaged in wooden or fiberboard outer packaging, the glass inner packagings must be packed in tightly-closed, non-reactive intermediate packagings and cushioned with a non-reactive absorbent material. PHMSA is seeking comment on whether or not this proposed packaging should be applied to other similar materials as well as cost burdens from the increase in packaging requirements.

E. Pressure Test and Internal Visual Inspection Requirements for MC 331 Cargo Tanks (P–1604)

In P–1604, the National Propane Gas Association (NPGA) requests PHMSA modify the pressure test and visual inspection test requirements applicable to certain MC 331 specification cargo tanks in dedicated propane delivery service, commonly known as bobtails, found in § 180.407(c) . Currently, the HMR require periodic pressure testing and visual inspection every five years to remain in service. NPGA petitions PHMSA to extend the requalification period for certain MC 331 cargo tanks from five years to ten years and provides a technical case for this change.

NPGA states in its petition that the five-year requalification period for bobtails is a burden to the propane industry. It states that these cargo tanks must be taken out of service for a period of up to a week and that water is introduced into the tank during the requalification process, which can be detrimental to the tank and product contained in the tank. Before a tank can be returned to service, it must be completely free of any water. NPGA states that this removal from service hinders a propane company's operations.

In 2001, NPGA conducted a survey to determine whether companies that performed the five-year hydrostatic test requirement had experienced any failures. None of the 203 survey respondents reported a hydrotest failure for tanks of less than 3,500 gallons water capacity. Based on the results of this survey, the NPGA sponsored a study by a non-profit research and development organization (the Battelle Memorial Institute) to determine whether a change to the requalification period would be technically feasible. Battelle developed crack growth models to estimate the time to failure of a tank that has undergone several pressure cycles. They also analyzed effects on the MC 331 cargo tank under the delivery service load conditions to determine the estimated life of the tank.

Based on the results of this study, the NPGA and Battelle recommend that PHMSA modify the requalification period from five years to ten years for MC 331 cargo tanks that: (1) Are used in dedicated propane service; (2) have a water capacity less than 3,500 gallons; and (3) are constructed of: non-quenched and tempered (NQT) SA–612 steel and NQT SA–202 or SA–455 steels, provided the materials have full-size equivalent (FSE) Charpy-V notch energy test data that demonstrates 75% shear-area ductility at 32 °F with an average of three or more samples greater than 15 ft-lb FSE, and with none less than 10 ft-lb FSE. A copy of this study is in the docket for this rulemaking.

After considering the NPGA survey results, which cite no reported incidents, and the study commissioned by the NPGA, PHMSA determined that the petition merited consideration of a rulemaking change. NPGA notes there is a strong safety record amongst its members regarding this issue and the cost savings to the industry would be significant (a specific benefit was not provided by the NPGA). Therefore, PHMSA is proposing to revise the pressure test and internal visual inspection requirements found in § 180.407(c) for certain MC 331 Specification cargo tanks from a five-year requalification period to a ten-year period. PHMSA seeks comment on the safety implications of such a change as well as the net benefit such a change (*i.e.,* decrease in time out of service) would provide.

F. Mobile Acetylene Trailer Systems (P–1605) and NTSB Safety Recommendations H–09–01 and H–09–02

In P–1605, the CGA requests that PHMSA amend the HMR to incorporate a reference to CGA pamphlet G–1.6, *Standard for Mobile Acetylene Trailer Systems, Seventh Edition* (G–1.6, 2011). This standard provides minimum requirements necessary for the design, construction, and operation of mobile acetylene trailer systems, which consist of acetylene cylinders mounted and manifolded for the purposes of charging, transporting, and discharging acetylene. It also covers ground-mounted auxiliary equipment used with mobile acetylene trailers such as piping, meters, regulators, flash arrestors, and fire protection equipment.

This petition coincides with two NTSB recommendations (H–09–01 and H–09–02) issued to PHMSA based on incidents involving mobile acetylene trailers.[1] In response to CGA's petition and its appropriateness to addressing the NTSB recommendations, PHMSA determined that it warranted consideration of a rulemaking change. Further detailed discussion of this issue can be found in the Section-by-Section review for § 173.301.

G. Pressure Relief Devices for Cargo Tanks (P–1609)

In P–1609, the Truck Trailer Manufacturers Association (TTMA) requests that PHMSA amend the § 180.407 requirements applicable to pressure relief devices (PRDs). Specifically, TTMA requests that PHMSA revise the HMR to more clearly establish the set pressure of a PRD for each of the DOT specification cargo tank motor vehicles. TTMA states that the wording of §§ 180.407(d)(3) and 180.407(g)(1)(ii), applicable to the testing requirements for PRDs, creates issues for persons performing the testing of a PRD.

TTMA points out two specific issues with these paragraphs. The first is the

[1] *http://phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/Files/NTSB%20Files/H_09_1_2_Original.pdf.*

term ''set-to-discharge.'' On April 9, 2009 PHMSA published a final rule (Docket No. PHMSA–2006–25910 (HM–218E); 74 FR 16135; effective May 11, 2009), where in an attempt to harmonize with international standards, PHMSA removed the phrase ''set-to-discharge,'' and ''start-to-discharge'' was substituted in its place. TTMA explains that this is an issue because the discharge pressure referenced is used to figure the minimum pressure at which the PRD should reseat. By changing the wording from ''set'' to ''start,'' the reseating pressure changed from a design requirement, to one based on what a given vent actually does under test. Therefore, instead of testing a PRD knowing its reseating requirements, testers must perform the test of a given PRD and calculate the reseating pressure of that particular PRD and retest from that pressure. Essentially, testers of PRDs could test identical products at different pressures because the reseat pressure is no longer a fixed design requirement. This creates inconsistencies between the reseating pressures of comparable PRDs authorized for identical hazardous materials service. TTMA states that this compromises safety, instead of promoting it.

The second issue TTMA points out in its petition is in regards to the term ''the required set pressure.'' This term is problematic in relation to the continuing operation of existing cargo tanks made to older specifications in § 180.405(c). As the codes for the older specifications of cargo tanks are no longer published, determining ''the required set pressure'' is problematic. This is an issue for current specifications of cargo tanks as well. There are pressure allowances during the retesting of pressure relief devices of no more than 110% of the required set pressure (§ 180.407(d)(3)) and the same 10% allowance for DOT 400 series cargo tanks (§ 178.345–10(d)) creates confusion for current specification cargo tanks. TTMA believes this will create an unsafe condition for tanks, as a PRD is no longer functioning as designed by the manufacturer. The PRD may actually open at higher pressures (near a cargo tank's test pressure) as opposed to the appropriate lower design pressure.

TTMA petitions that PHMSA revise the HMR for testing of PRDs by replacing the current requirements found in §§ 180.407(d)(3) and 180.407(g)(1)(ii) with a reference to a new paragraph, § 180.407(j) which would detail the PRD test requirements. TTMA believes this change will eliminate confusion for testers by clarifying the requirements for opening and reseating pressures when beginning the tests. This will also enhance the enforcement of these requirements by creating consistency in the testing requirements for cargo tank PRDs of the same design.

PHMSA determined that TTMA's petition merited consideration of a rulemaking change based on the need for consistent and clear testing requirements for PRDs on DOT specification cargo tanks. Therefore, PHMSA is revising §§ 180.407(d)(3) and 180.407(g)(1) to reference a new section § 180.407(j), which will outline the testing requirements applicable to PRDs.

IV. Section-by-Section Review

Part 107

Section 107.402

This section sets forth the application requirements for designation as a certification agency to issue certificates and certifications for packagings designed, manufactured, tested, or maintained in conformance with the HMR and standards set forth in the UN Model Regulations. This section also sets forth the application requirements for designation as a certification agency to issue certificates and certifications for lighters, portable tanks, multi-element gas containers, and Division 1.4G consumer fireworks.

PHMSA is proposing to revise § 107.402(d)(1)(i) to indicate that a fireworks certification agency applicant must be a U.S. resident, or for a non-U.S. resident, must have a designated U.S. agent representative as specified in § 105.40. The criteria for fireworks certification agencies were added to the HMR in Docket No. PHMSA–2010–0320 (78 FR 42457) (HM–257). PHMSA intended for § 107.402(d)(1)(i) to correspond with the requirements of § 105.40, which specifies designated agents for non-residents; however, the term ''citizen'' was inadvertently substituted for ''resident.'' PHMSA is proposing to revise § 107.402(d)(1)(i) by replacing the term ''citizen'' with the term ''resident.''

PHMSA is also proposing to revise § 107.402(e) to require that a lighter certification agency submit a statement to the Associate Administrator that the agency is independent of and not owned by a lighter manufacturer, distributor, import or export company, or proprietorship. Further, we propose to revise § 107.402(f) to require that a portable tank and MEGC certification agency submit a statement to the Associate Administrator indicating that the agency is independent of and not owned by a portable tank or MEGC manufacturer, owner, or distributor. This language was included in § 107.402 and pertained to all certification agencies, but was removed inadvertently as a result of changes made to the HMR in Docket No. PHMSA–2010–0320 (78 FR 42457) (HM–257).

Section 107.807

This section sets forth the requirements for authorizing chemical analyses and tests for non-domestic manufacturers of DOT specification or special permit cylinders. To maintain consistency with requirements of other independent inspection agencies, PHMSA is proposing to revise § 107.807 to require that the agency submit a statement indicating that the inspection agency is independent of and not owned by a cylinder manufacturer, owner, or distributor.

Part 171

Section 171.7

The National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) directs agencies to use voluntary consensus standards in lieu of government-unique standards except where inconsistent with law or otherwise impractical. Section 171.7 lists all standards incorporated by reference into the HMR and informational materials not requiring incorporation by reference. The informational materials not requiring incorporation by reference are noted throughout the HMR and provide best practices and additional safety measures that while not mandatory, may enhance safety and compliance. Table 1 to § 171.7 lists informational materials that are not incorporated by reference. In a final rule published on January 28, 2008 (Docket No. 05–21812 (HM–218D); 73 FR 4699, effective October 1, 2008), PHMSA added in Table 1 (formerly paragraph (b) of the section) an entry for the Compressed Gas Association (CGA) publication, CGA C–1.1, *Personnel Training and Certification Guidelines for Cylinder Requalification by the Volumetric Expansion Method.* Following the publication of the final rule (HM–218D), PHMSA received an appeal from Hydro-Test Products, Inc. (PHMSA–2005 21812–0025) asking us to either remove the reference to CGA C–1.1 or add examples of other training materials that may be used. Hydro-Test noted that referencing only the CGA publication in the HMR could suggest that other training materials are not acceptable. PHMSA added CGA C–1.1 as an example of guidance material that may be used to assist requalifiers in creating their cylinder training

procedures and recordkeeping requirements. The publication is not a standalone tool for training persons on how to perform requalification of cylinders using the volumetric expansion test method. To alleviate confusion for cylinder requalifiers, PHMSA intended to remove the reference to CGA C–1.1 in §§ 171.7 and 180.205 in a previous editorial final rule published on October 1, 2008 (Docket No. PHMSA–2008–0227 (HM–244A); 73 FR 57001, effective October 1, 2008). However, PHMSA removed reference to the document only in § 180.205(g)(6) and inadvertently failed to remove the reference in § 171.7. PHMSA is proposing to amend Table 1 to § 171.7 to remove the entry for CGA C–1.1 to align the regulatory text with previous rulemaking actions.

Additionally, § 171.7 incorporates by reference the *American Association of Railroad's (AAR's) Manual of Standards and Recommended Practices, Section C–III, Specifications for Tank Cars, Specification M–1002* (AAR Specifications for Tank Cars), October 2000 edition for various tank car design, manufacture, inspection and testing, and qualification regulations set forth in Parts 173, 179, and 180 of the HMR. As currently incorporated by reference, all sections refer to the October 2000 edition of this document.

AAR frequently updates the AAR Specifications for Tank Cars. While the AAR updates this document, PHMSA has not received a petition for rulemaking to revise the HMR to reflect more current versions of the AAR Specifications for Tank Cars.

In this proposed rule, we are proposing to update the incorporation by reference for this document to include revisions published by the AAR in the 2007 edition of the AAR Specifications for Tank Cars and certain subsequent amendments. PHMSA is also proposing to revise § 179.24(a)(2) to remove the reference to the December 2000 edition of this document and instead replace it with a generic reference to the AAR Specifications for Tank Cars. Additionally, we are proposing to revise § 180.503 to replace the reference to the ''AAR Tank Car Manual'' with ''AAR Specifications for Tank Cars'' for consistency with references to this document elsewhere in the HMR. The FRA reviewed the 2007 standard and the subsequent amendments and determined not to incorporate the 2007 standard in its totality. Under this proposed rule, each chapter and appendix of the AAR Specifications for Tank Cars will be listed in § 171.7 with an effective date to account for the most recent AAR amendments supported by FRA. In cases where FRA does not support amendments made to the AAR Specifications for Tank Cars due to safety concerns a prior effective date for that specific chapter or appendix will be referenced, and in some cases, specific sections of the chapter or appendix will be specifically not included. Upon adoption into the HMR, entities subject to compliance with the HMR must comply with the version of the chapters and appendices referred to in § 171.7 and effective on the date specified therein. AAR publications such as this are available through the AAR as a benefit of membership. We anticipate that affected entities already have access to the AAR Specifications for Tank Cars we are proposing to incorporate. Other interested parties may purchase these standards from the AAR for $390.00. Moving forward, FRA will continue to evaluate amendments made to the AAR Specifications for Tank Cars and will update the effective dates for referenced chapters or appendices of the tank car manual, as appropriate, when such amendments are supported by FRA.

Lastly, as described in Section IIF for petition for rulemaking P–1605 and further discussed in the Section-by-Section review for § 173.30, PHMSA proposes to amend the HMR to incorporate a reference to CGA pamphlet G–1.6, *Standard for Mobile Acetylene Trailer Systems, Seventh Edition* (G–1.6, 2011). Interested parties may purchase a copy of this standard from the CGA starting at $37.00.

Section 171.22

In a May 3, 2007 final rule (Docket No. PHMSA–2005–23141 (HM–215F); 72 FR 25162), the importer responsibility requirements were transitioned from § 171.12(a) to § 171.22. When transitioning the requirement that a person importing a hazardous material into the United States must provide the shipper and forwarding agent with information required under the HMR, the shipper notification was inadvertently omitted. As a result, only the forwarding agent is presently required to be provided with information as to the requirements of the HMR applicable to the particular shipment. In this NPRM, PHMSA is proposing to reinstate text in § 171.22(f) that was inadvertently removed during the transition by requiring both the foreign shipper and forwarding agent at the place of entry to be provided with the requirements of the HMR applicable to the particular shipment.

Part 172

Section 172.101

This section contains the HMT and explanatory text for each of the columns in the table. In this NPRM, PHMSA is proposing a number of revisions to the § 172.101 HMT, including the special provisions listed in Column (7) of the table and specified in § 172.102, to clarify the regulations and correct inadvertent errors. Proposed changes to the § 172.101 HMT will appear as an ''add,'' ''remove,'' or ''revise,'' and include changes to the following table entries: ''Calcium nitrate, UN1454,'' ''Corrosive liquids, flammable, n.o.s., UN2920,'' ''Fire extinguishers, UN1044,'' ''Oxidizing solid, corrosive, n.o.s., UN3085,'' ''Propellant solid, UN0501,'' ''Trinitrophenol (picric acid), wetted, *with not less than 10 percent water by mass,* UN3364,'' and ''Trinitrophenol, wetted *with not less than 30 percent water, by mass,* UN1344.''

The entry for ''Calcium nitrate, UN1454'' is being revised to reflect a change that was intended to be made when PHMSA published a final rule on January 7, 2013 (Docket No. PHMSA–2012–0027 (HM–215L); 78 FR 987). Special Provision B120 was inadvertently not assigned to the entry for ''Calcium nitrate, UN1454'' when several HMT other entries were revised to include Special Provision B120. Special Provision B120 indicates that the material, when offered in conformance with the applicable requirements of Part 178 and general packaging requirements in Part 173, may be offered for transportation in a flexible bulk container. PHMSA is proposing to revise the HMT to add Special Provision B120 to Column (7) for the entry ''Calcium nitrate, UN1454.''

The entry for ''Corrosive liquids, flammable, n.o.s., UN2920'' is being revised to harmonize the HMR with the UN Model Regulations, IMDG Code, and the ICAO TI. The UN Model Regulations, IMDG Code, and ICAO TI provide limited quantity exceptions for the PG II entry. Therefore, PHMSA is proposing to revise the entry for ''Corrosive liquids, flammable, n.o.s., UN2920, PG II'' to remove the word ''None'' from Column (8A) of the HMT and add ''154.'' This change will be consistent with similar PG II materials that are also provided the limited quantity exception.

The entry for ''Fire extinguishers, UN1044'' is being revised to eliminate reference to a Special Provision 18 which is no longer in the HMR. Special Provision 18 was removed from

§ 172.102(c)(1) in a January 7, 2013 final rule (Docket No. PHMSA–2009–0126 (HM–215K); 78 FR 1101) and combined into revised § 173.309(a). We did not make a conforming amendment to remove Special Provision 18 from this entry in the HMT, thus, in this NPRM, we are proposing to revise the entry for ''Fire extinguishers, UN1044'' by deleting the special provision.

The entry for ''Oxidizing solid, corrosive, n.o.s., UN3085'' is being revised to harmonize with the UN Model Regulations, IMDG Code, and the ICAO TI. The UN Model Regulations, IMDG Code, and ICAO TI provide limited quantity exceptions for the PG II entry. Therefore, PHMSA is proposing to revise the entry for ''Oxidizing solid, corrosive, n.o.s., UN3085, PG II'' to remove the word ''None'' from Column (8A) of the HMT and add ''152.''

The entry for ''Propellant, solid, UN0501' is being revised to eliminate a reference to a requirement that is no longer is in the HMR. Column (10B) of this entry lists vessel stowage provision 24E. Vessel stowage provision 24E was removed from § 176.84(c)(2) when the Research and Special Programs Administration (RSPA), PHMSA's predecessor, published a final rule on June 21, 2001 (Docket No. RSPA–2000–7702 (HM–215D); 66 *FR* 33316, effective October 1, 2001) that revised the table of provisions applicable to vessel transportation of Class 1 (explosive) materials. As this provision is no longer in the HMR, PHMSA is proposing to revise the entry for ''Propellant, solid, UN0501'' to remove vessel stowage provision 24E from Column (10B) of the HMT.

The HMT entries for ''Trinitrophenol (picric acid), wetted, *with not less than 10 percent water by mass,* UN3364'' and ''Trinitrophenol, wetted *with not less than 30 percent water, by mass,* UN1344,'' are being revised to harmonize the HMR with the UN Model Regulations, IMDG Code, and the ICAO TI. Presently, Special Provision 162 is applied to UN3364 (*not less than 10 percent water)* and Special Provision 23 is applied to UN1344 (*not less than 30 percent water*). Special Provision 162 outlines a provision for transport of the material as a Division 4.1. The material must be packed such that at no time during transport will the percentage of diluent fall below the percentage that is stated in the shipping description. Special Provision 23 is similar in that it also outlines this provision but includes an additional condition that quantities of not more than 500 grams per package with not less than 10 percent water by mass may also be classed in Division 4.1, provided a negative test result is obtained when tested in accordance with test series 6(c) of the UN Manual of Tests and Criteria.

The special provisions are assigned in the reverse manner to the trinitrophenol entries in the UN Model Regulations, IMDG Code, and the ICAO TI. Special Provision 23 is applied to UN3364 with the lower minimum diluent percent of water while the 500 gram limit per package for 10% diluent does not apply to UN1344 with the larger minimum diluent percentage of water (*i.e.,* 30%). Thus the special provision was inadvertently incorrectly assigned in the HMR. For the entry ''Trinitrophenol (picric acid), wetted, *with not less than 10 percent water by mass,* UN3364,'' we propose to replace Special Provision 162 in Column (7) of the HMT with Special Provision 23. Conversely, for the entry ''Trinitrophenol, wetted, *with not less than 30 percent water, by mass,* UN1344,'' we propose to replace Special Provision 23 from Column (7) of the HMT with Special Provision 162.

Section 172.102

This section outlines special provisions that are listed in Column (7) of the § 172.101 HMT. Special Provision 136 is listed for the entry ''Dangerous Goods in Machinery *or* Dangerous Goods in Apparatus, UN3363.'' PHMSA received a request for a letter of interpretation (Ref. No. 12–0037) which sought confirmation that a material classified as a Class 2 gas that has packaging exceptions listed in Column (8A) of the HMT may be described as ''Dangerous Goods in Apparatus, UN3363.'' The requestor pointed out that the provisions in Special Provision 136 are inconsistent. Special Provision 136 states that except when approved by the Associate Administrator, machinery or apparatus may only contain hazardous materials for which exceptions are referenced in Column (8) of the HMT and are provided in Part 173, Subpart D of Subchapter C. Subpart D of Part 173 contains the definitions, classification, packing group assignments and exceptions for hazardous materials other than Class 1 and Class 7. However, preparation, packaging and exceptions for Class 2 gases are located in Subpart G of Part 173. This should be indicated in Special Provision 136 to eliminate confusion that gases prepared in accordance with Subpart G of Part 173 would not be eligible to be described as ''Dangerous Goods in Apparatus, UN3363.'' It was not PHMSA's intention to exclude Class 2 gases from using this proper shipping name, therefore, PHMSA is proposing to revise Special Provision 136 in § 172.102 to include reference to subpart G of part 173.

Section 172.201

This section prescribes the requirements for the preparation and retention of shipping papers. Paragraph (d) of this section states the requirements for shipping papers to contain an emergency response telephone number. This paragraph states that except as provided in § 172.604(c), a shipping paper must contain an emergency response telephone number. The reference in this paragraph to § 172.604(c) is inaccurate. The requirements in § 172.604 applicable to emergency response telephone numbers were changed when PHMSA published a final rule on October 19, 2009 (Docket No. PHMSA–2006–26322 (HM–206F); 74 FR 53413, effective November 18, 2009). This rulemaking action moved the exceptions to the requirement to provide an emergency response telephone number to a new paragraph (d). PHMSA is proposing a conforming revision to § 172.201(d) to accurately reference the exception from the emergency response telephone number requirement found in § 172.604(d).

Sections 172.301, 172.326, 172.328, and 172.330

These sections prescribe marking requirements for non-bulk packagings, portable tanks, cargo tanks, tank cars and multi-unit tank car tanks. Each of these sections contains a paragraph (§§ 172.301(f), 172.326(d), 172.328(e), and 172.330(c)) prescribing requirements for legible marking of packages containing unodorized LPG with NON-ODORIZED or NOT-ODORIZED. PHMSA received a request for a letter of interpretation (Ref. No. 06–0235) requesting clarification that the NON-ODORIZED or NOT-ODORIZED mark may also appear on a package containing odorized LPG. In the letter, we noted that PHMSA addressed this issue in part in a final rule published by its predecessor agency, RSPA, on November 4, 2004 (RSPA–03–15327 (HM–206B); 69 FR 64462, effective October 1, 2006). Final rule HM–206B changed the hazard communication requirements applicable to certain packages containing unodorized LPG, including the requirement to mark with NON-ODORIZED or NOT-ODORIZED. Specifically, it also clarified that the NON-ODORIZED or NOT-ODORIZED marking may appear on a tank car or multi-unit tank car tanks used for both unodorized and odorized LPG. This was implemented to address the concerns

expressed by a commenter to the rule about the logistics of tracking, inspecting, and stenciling tank cars to ensure proper marking. However, this clarification was not extended to cylinders, cargo tanks and portable tanks containing LPG in that final rule. We further noted in the response letter that we intended to revisit this issue in a future rulemaking to extend this clarification to other packaging types that are filled with unodorized or odorized LPG.

We see no compelling argument not to extend this allowance further to other packaging types, thus, PHMSA is proposing to revise §§ 172.301(f), 172.326(d) and 172.328(e) to include the clarification that the marking may appear on these packagings used for both unodorized and odorized LPG, and remove the effective date of October 1, 2006 that appears in these paragraphs, as the effective date has long passed. PHMSA is also removing the effective date referenced in paragraph § 172.330(c).

Section 172.406

This section specifies the placement of labels on a package. Paragraph (d) of this section prescribes requirements that labels be printed or affixed to a background of contrasting color, or must have a dotted or solid line outer border. Further, § 172.407(b)(2) provides that the dotted line border on each label shown in §§ 172.411 through 172.448 is not part of the label specification, except when used as an alternative for the solid line outer border to meet the requirements of § 172.406(d). Based on this language, it appears that labels with a dotted or solid line outer border are permitted only if the surface of the package is not a contrasting color.

In this rulemaking, we are proposing to amend § 172.406(d) by expressly authorizing the use of labels described in Part 172, Subpart E with a dotted or solid line outer border on a surface background of contrasting color. There is no reduction in hazard communication and this revision will provide cost savings to shippers by eliminating the need to acquire and store two types of labels (one with a border and the other without) depending on the surface color of the package.

Section 172.407

This section contains label specifications. Paragraph (d) of this section contains color specifications for labels including a requirement for color tolerances according to color charts referenced in Appendix A to Part 172 of the HMR. Paragraph (d)(4)(ii) states that the color charts are on display at the Office of Hazardous Materials Safety, Office of Hazardous Materials Standards, Room 8422, Nassif Building, 400 Seventh Street SW., Washington, DC 20590–0001. This address does not reflect the current address of the Office. PHMSA is amending the address in § 172.407(d)(4)(ii) to read Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Section 172.514

This section prescribes the placarding requirements and exceptions for a bulk packaging containing a hazardous material. In paragraph (c)(4), an exception is provided for an IBC that is labeled in accordance with Part 172, Subpart E instead of placarded. IBCs that are labeled instead of placarded are authorized to display the proper shipping name and UN identification number in accordance with the bulk package marking size requirements of § 172.302(b)(2) in place of the UN number on an orange panel, placard or white square-on-point. Section 172.302(b)(2) requires that for IBCs, markings have a width of at least 4.0 mm (0.16 inch) and a height of at least 25 mm (one inch). This is inconsistent with the UN Model Regulations, IMDG Code, and ICAO TI that all require a height of 12 mm (0.47 inch). The international size requirement is equivalent to the non-bulk marking size requirement provided in § 172.301(a)(1). In addition, the reference to the bulk packaging marking requirements of § 172.302(b)(2) in § 172.514(c)(4) conflicts with § 172.336(d) identification number marking requirements which states ''[w]hen a bulk packaging is labeled instead of placarded in accordance with § 172.514(c) of this subchapter, identification number markings may be displayed on the package in accordance with the marking requirements of § 172.301(a)(1) of this subchapter.''

In this rulemaking, we are proposing to clarify that the marking size requirement, for both the proper shipping name and identification number, is at least 12 mm (0.47 inch) for an IBC that is labeled instead of placarded. PHMSA proposes replacing the bulk package marking reference in § 172.514(c) with the non-bulk marking reference, specifically, § 172.301(a)(1). The reduced minimum marking size will alleviate the existing discrepancy between § 172.514(c)(4) and § 172.336(d) and decrease frustration of shipments by harmonizing with international regulations thus ensuring IBC's marked in accordance with these regulations are consistent with the HMR.

Part 173

Section 173.4a

This section prescribes the requirements for excepted quantities of hazardous materials. The excepted quantities provisions were added to the HMR when PHMSA published a final rule on January 14, 2009 (Docket Nos. PHMSA–2007–0065 (HM–224D) and PHMSA–2008–0005 (HM–215J); 74 FR 2254, effective February 13, 2009) in an effort to harmonize with international standards. Excepted quantities provisions in § 173.4a are intended to be consistent with the existing exception in the ICAO TI. Paragraph (a) reads ''[e]xcepted quantities of materials other than articles transported in accordance with this section are not subject to any additional requirements of this subchapter except for . . .'' This language is unclear as to whether articles (including aerosols) may use the excepted quantities provisions. PHMSA is revising this paragraph to clarify that articles (including aerosols) are not eligible for excepted quantity reclassification under § 173.4a, although some aerosols are eligible to be shipped as small quantities by highway and rail in § 173.4. This will eliminate confusion as to the status of articles (including aerosols) in the context of this exception, while providing consistent language structure with part 3, chapter 5, section 5.1 of the ICAO TI.

Section 173.21

This section outlines forbidden materials and packages. Paragraph (e) of this section forbids transport of a material in the same packaging, freight container, or overpack with another material, that if mixed would likely cause a dangerous evolution of heat, flammable or poisonous gases or vapors, or produce corrosive materials. While this prohibition prevents incidents from occurring within a freight container, overpack or the same container, there is no prohibition on this type within a transport vehicle (*e.g.,* a truck with single trailer). A transport vehicle is defined in § 171.8 as a cargo-carrying vehicle such as an automobile, van, tractor, truck, semitrailer, tank car or rail car used for the transportation of cargo by any mode. Each cargo-carrying body is a separate transport vehicle. Allowing materials within a single cargo-carrying body (*e.g.,* a trailer, a rail car, etc.) that, if mixed, could cause a

dangerous evolution of heat, flammable or poisonous gases or vapors, or create corrosive materials poses a significant safety risk. This method of transportation is forbidden within a freight container, packaging, or overpack, and while a transport vehicle is slightly different than a packaging or overpack, it is similar to a freight container.

PHMSA received a request for a letter of interpretation (Ref. No. 13–0111) describing a potentially dangerous situation. In the letter, the requestor described a scenario whereby a company offers for transportation ''UN1908, Chlorite Solution, Class 8, Packing Group (PG) II;'' ''UN1791, Hypochlorite Solutions, Class 8, PG III;'' and ''UN1789, Hydrochloric Acid Solution, Class 8, PG II'' in separate intermediate bulk containers (IBCs) in the same transport vehicle. While there are no formal segregation requirements per § 177.848 of the HMR, data accompanying the letter indicated that in the event of commingling, these materials would create chlorine dioxide gas. ''Chlorine dioxide (not hydrate)'' is forbidden for transportation per the § 172.101 HMT. Thus, the transportation of these materials in the same transport vehicle would create a situation where the mixing of the materials would produce a poisonous gas and highly corrosive material, which happens to also be forbidden from transport; yet, under the current construct of § 173.21, there is no prohibition against this transport scenario.

The concern is that a single cargo-carrying body, such as a trailer or rail car, does not provide a level of safety equivalent to if these materials were intended to be in the same freight container, yet it is permitted in the HMR. Additionally, the loading and unloading requirements for Class 8 materials in § 177.839 or part 174 do not address the loading of chlorite solutions and hypochloric acid in the same transport vehicle.

Prohibiting the transportation or offering for transportation of materials in the same transport vehicle (*e.g.,* a trailer, a rail car) with another material which is likely to cause a dangerous evolution of heat, flammable or poisonous gases or vapors, or produce corrosive materials upon mixing would address the safety risk referenced in the letter of interpretation Ref. No. 13–0111, for both rail and highway transport. This change would afford these modes of transportation the same level of safety seen in intermodal transportation and the forbidden materials restrictions for freight containers. Therefore, PHMSA is proposing to revise § 173.21(e) to include the term transport vehicle.

Section 173.24a

Section 173.24a prescribes additional general requirements for non-bulk packages. Paragraph (c)(1)(iv) provides the quantity limits for mixed contents packages (when multiple hazardous materials are packed within the same package) transported by aircraft. In this rulemaking, we are proposing to clarify that the requirements provided in paragraph (c)(1)(iv) do not apply to limited quantity materials packaged in accordance with § 173.27(f)(2). This change is proposed for clarification purposes only. Misapplication of § 173.24a(c)(1)(iv) would be duplicative and, in certain cases, would place unintended restrictions on the net quantity of hazardous materials per package.

Section 173.27

This section prescribes general requirements for the transportation of hazardous material by aircraft. Paragraph (f)(2) contains the provisions for limited quantities but does not expressly address limited quantity packages of mixed contents. PHMSA received a request for a letter of interpretation (Ref. No. 13–0094) to clarify, for transportation by aircraft, the applicable section to reference. Specifically, the requester asked whether Table 3 in § 173.27(f)(3), or the general provisions in § 173.24a(c)(1)(iv) should be used when determining the maximum net quantity of each inner and outer packaging for limited quantity packages of mixed contents. In response, we stated that as provided in § 173.27(f)(2), when a limited quantity of a hazardous material is packaged in a combination packaging and is intended for transportation aboard an aircraft, the inner and outer packagings must conform to the quantity limitations set forth in Table 3. Table 3 provides the maximum net quantity of each inner and outer packaging for materials authorized for transportation as a limited quantity by aircraft. For mixed contents of limited quantities by air, the shipper must comply with the maximum authorized net quantity of each outer package (column 4 of 5 in Table 3) and ensure that the total net quantity does not exceed the lowest permitted maximum net quantity per package as shown by hazard class or division for the hazardous materials in the mixed contents package.

In this rulemaking, we are proposing to revise § 173.27(f)(2)(i) to clarify that the maximum net quantity for limited quantity packages of mixed contents must conform to the quantity limitations provided in § 173.27(f)(3), Table 3.

Section 173.150

This section provides exceptions for Class 3 (flammable and combustible liquid) hazardous materials. The requirements for combustible liquids in bulk packagings are found in §§ 173.150(f)(3). Although placarding under Subpart F of Part 172 is specified as a requirement in § 173.150(f)(3)(iv), registration requirements of § 107.601 are not included among the subject requirements. Given that § 173.150(f)(3) provides a list of subject requirements for combustible liquids in bulk packaging, PHMSA is revising this section by adding a new subparagraph § 173.150(f)(3)(xi) stating that the registration requirements in Subpart G of Part 107 are also applicable, for bulk packagings only. PHMSA is also revising §§ 173.150(f)(3)(ix) and 173.150(f)(3)(x) for punctuation applicable to the listing of requirements.

Section 173.159

This section prescribes requirements applicable to the transportation of electric storage batteries containing electrolyte acid or alkaline corrosive battery fluid (*i.e.,* wet batteries). This section outlines packaging requirements, exceptions for highway or rail transport, and tests which batteries must be capable of withstanding to be considered as non-spillable. However, there are no requirements or instructions for shippers of damaged or leaking wet batteries to prepare these items for transport. PHMSA received a request for a letter of interpretation (Ref. No. 06–0031) to clarify whether a shipper of a damaged wet battery may utilize the exception from full regulation provided in § 173.159(e). In response, we stated that a damaged battery may be shipped in accordance with § 173.159(e) provided: (1) It has been drained of battery fluid to eliminate the potential for leakage during transportation; (2) it is repaired and/or packaged in such a manner that leakage of battery fluid is not likely to occur under conditions normally incident to transportation; or (3) the damaged or leaking battery is transported under the provisions of § 173.3(c).

PHMSA is proposing to create a new paragraph (j) in § 173.159 to address the need for provisions that allow shippers to prepare for transport and offer into transportation damaged wet electric storage batteries. This paragraph will permit the transportation, by highway or rail, of damaged wet electric storage batteries under the conditions outlined

in the letter of interpretation. In addition to the conditions listed in paragraph (j), damaged wet electric storage batteries must also meet all other applicable requirements of § 173.159.

Section 173.166

This section prescribes requirements applicable to the transportation of air bag inflators, air bag modules, and seat-belt pretensioners. In a final rule (Docket No. PHMSA–2010–0201 (HM–254)) published on July 30, 2013 (78 FR 45880), PHMSA revised the requirements applicable to these materials. Among the changes made was the adoption of Special Permit DOT SP–12332 into the HMR, This special permit excepted Class 9 air bag inflators, air bag modules, or seat-belt pretensioners assigned to UN3268 from the requirement to provide the EX number (*i.e.,* the approval number) on the shipping paper.

Under § 173.166, paragraph (e)(6) authorizes packaging alternatives for air bag inflators, air bag modules, and seat-belt pretensioners that have been removed from, or were intended to be used in, a motor vehicle; and those devices meet the requirements for use in the United States and are being transported to recycling or waste disposal facilities. When adopted in HM–254, a provision in § 173.166 (e)(6) stated ''for domestic transportation by highway'' thereby limiting the use of this exception to ground transport, yet DOT SP–12332 specifically permitted transport by ''cargo vessel'' as an authorized mode of transportation. For greater consistency with the special permit language adopted in HM–254, PHMSA is revising paragraph (e)(6) to add the words ''or cargo vessel.''

Sections 173.170 and 173.171

These sections prescribe exceptions for the transportation of black powder for small arms classed as a Division 1.1 explosive and smokeless powder for small arms classed as a Division 1.3 explosive. These exceptions permit these materials to be reclassed as Division 4.1 flammable solid material for domestic transportation. In both sections, the total quantity of black or smokeless powder for small arms is limited to 45.4 kg (100 pounds) net mass in a motor vehicle (other modes are authorized as well). PHMSA believes the exception should be updated to account for modern highway transportation. Currently, the HMR defines motor vehicle in § 171.8 to include a vehicle, machine, tractor, trailer, or semitrailer, or any combination thereof. The use of the term motor vehicle in this exception limits a carrier with multiple trailers to 100 pounds total of black or smokeless powder, reclassed as Division 4.1. Carriers who commonly transport double or triple trailer loads by highway may find it difficult to ensure that each trailer contains an amount of black or smokeless powder, reclassed as Division 4.1 that would keep the total quantity in all trailers under 100 pounds.

PHMSA believes the term motor vehicle should be replaced with transport vehicle in the context of this exception and we believe doing so will not decrease the level of safety for the transport of these materials. The term transport vehicle is defined in § 171.8 as a cargo-carrying vehicle such as an automobile, van, tractor, truck, semitrailer, tank car or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (a trailer, a rail car, etc.) is a separate transport vehicle. Changing the term motor vehicle to transport vehicle would reflect a consistency in the ability to use exceptions for black or smokeless powder with the other modes, such as rail and vessel, whereby each rail car or freight container is permitted to have 100 pounds total. Thus, PHMSA proposes to revise §§ 173.170 and 173.171 to replace the term ''motor vehicle'' with ''transport vehicle.'' Additionally, PHMSA is requesting specific comment from stakeholders on this issue and any data they have relating to noted incidents involving transporting black or smokeless powder for small arms reclassed as Division 4.1 by motor vehicle.

Section 173.199

This section prescribes the packaging requirements for Category B infectious substances. Paragraph (a)(4) of this section requires that the packaging be capable of successfully passing the drop test in § 178.609(d) and the steel rod impact test in § 178.609(h) at a drop height of at least 1.2 meters (3.9 feet).

PHMSA received a request for a letter of interpretation regarding the test requirements in § 173.199(a)(4) (Ref. No. 07–0018). The request pointed out that in the preamble to the final rule published on June 2, 2006 under Docket Number PHMSA–2004–16895 (HM–226A) [71 FR 32244], we state that Category B packagings must be capable of passing a drop test, but need not be capable of passing a puncture or other performance test. The requester asked if the regulatory text requiring the steel rod impact test for this packaging was an error.

As we clarified in our response, PHMSA did not intend to require the steel rod impact test in § 178.609(h) for a packaging used to transport a Category B infectious substance. Therefore, in this rulemaking, we are proposing to revise the provisions in § 173.199(a)(4) by removing the reference to the steel rod impact test in § 178.609(h).

Section 173.216

This section establishes the transportation requirements for blue, brown, or white asbestos. Paragraph (c) of this section provides packaging requirements for asbestos including both ''non-bulk'' and ''bulk'' packaging options.

PHMSA received a request for a letter of interpretation regarding the applicability of bulk and non-bulk packaging instructions for asbestos (Ref. No. 11–0169). The letter expressed confusion regarding whether § 173.216 should apply to both ''bulk'' and ''non-bulk'' packages of asbestos, because as the requester noted in the letter, in the § 172.101 HMT, the entry for ''Asbestos,'' NA2212 refers to packaging instructions specified in § 173.216 for non-bulk packaging requirements, and § 173.240 for bulk packaging requirements. It was also noted in the letter that some of the packaging options specified in § 173.216 are considered bulk packagings.

PHMSA acknowledged that some of the packaging options provided in § 173.216(c) meet the bulk packaging definition specified in § 171.8 and, therefore, would be considered a bulk packaging for transportation purposes. In this rulemaking, we are proposing to amend the bulk packaging section reference in Column (8C) of the HMT from ''240'' to ''216'' for the table entries associated with the following identification numbers: NA2212, UN2212, and UN2590. In addition, we are proposing to revise paragraph (c)(1) in § 173.216 by authorizing the use of bulk packages prescribed in § 173.240. These proposed amendments will: (1) Eliminate the confusion pertaining to bulk packaging specifications contained in a section referenced in the authorized non-bulk Column (8B) of HMT; and (2) allow for the continued use of bulk packages in § 173.240, while also providing examples of specific bulk packagings authorized for asbestos such as hopper-type rail cars and hopper-type motor vehicles currently found in § 173.216(c)(1).

Section 173.225

This section contains the packaging requirements and other provisions applicable to the transportation of organic peroxides. Paragraph (d) of this section contains the Packing Method table, which provides packagings

authorized for organic peroxides and the maximum quantity permitted in each package or packaging. The table is missing information and PHMSA is proposing to revise the table to add a reference to note 1 for OP2, which states that if two values are given, the first applies to the maximum net mass per inner packaging and the second to the maximum net mass of the complete package. Additionally, PHMSA is proposing to revise the maximum quantity for solids and combination packagings (liquid and solid) for OP4. This quantity should read as ''5/25'' kg instead of only ''5.''

Section 173.301

This section applies to general requirements for shipment of compressed gases and other hazardous materials in cylinders, UN pressure receptacles and spherical pressure vessels. Paragraph (g) of this section describes the requirements to manifold cylinders in transportation. A manifold system is a single pipe or chamber connected to a group of cylinders, which allows for a single point of loading and unloading.

Incidents investigated by the NTSB have highlighted potential risks when transporting manifolded acetylene trailers.[2] These incidents included overturned vehicles and two unloading releases. As a result of the impact caused by ejection of the cylinders from the vehicle during overturn incidents, cylinders have shown signs of broken valves, burst heads, burst walls, as well as bulging and denting of the walls. The impact resulting from the ejection of the cylinders from the vehicle also can cause the valves to break, which may ignite the acetylene. The NTSB's investigation also concluded that the unloading sequence is occasionally done out of order from what is specified in the standard operating procedures and this can be a contributing factor to incidents.

These recent incidents involving manifolded acetylene trailers have caused the National Transportation Safety Board (NTSB) to issue two Safety Recommendations (H–09–01 and H–09–02) to PHMSA.[3] The NTSB investigations resulted in the issuance of the following Safety Recommendations:

H–09–01: *Modify 49 CFR 173.301 to clearly require (1) that cylinders be securely mounted on mobile acetylene trailers and other trailers with manifolded cylinders to reduce the likelihood of cylinders being ejected during an accident and (2) that the cylinder valves, piping, and fittings be protected from multidirectional impact forces that are likely to occur during highway accidents, including rollovers.*

H–09–02: *Require fail-safe equipment that ensures that operators of mobile acetylene trailers can perform unloading procedures only correctly and in sequence.*

Given the results of the NTSB investigations and the associated safety risks of mobile acetylene trailer overturns and unloading operations, PHMSA proposes to incorporate by reference in § 171.7 of the HMR the CGA pamphlet G–1.6–2001, *Standard for Mobile Acetylene Trailer Systems* (7th ed.). CGA G–1.6 would serve to address the NTSB Safety Recommendations specific to mobile acetylene trailers. This pamphlet was updated with input from PHMSA and the industry to address cylinder securement under accident conditions, valve protection from multidirectional impact forces and unloading fail-safe procedures specific to mobile acetylene trailers.

Specifically, PHMSA proposes to incorporate the CGA pamphlet into § 171.7, and revise § 173.301(g)(1)(iii) to indicate that mobile acetylene trailers must be maintained, operated and transported in accordance with CGA Pamphlet G–1.6. In addition, PHMSA seeks specific comment on the inclusion of CGA Technical Bulletin (TB) TB–25 to address structural integrity requirements. PHMSA is also proposing to revise § 177.840, by adding paragraph (a)(3) to state that cylinders containing acetylene and manifolded as part of a mobile acetylene trailer system must be transported in accordance with § 173.301(g) to ensure that this requirement is addressed in the carriage by highway portion of the HMR. PHMSA seeks comment on the number of entities affected by this proposal, if any. Finally, PHMSA seeks comment on safety implications of such a change as well as the net benefit such a change (*i.e.,* decrease in the number of frustrated shipments) would provide.

Sections 173.304a(d)(5), 173.314(h) and 173.315(b)(1)

Section 173.304a establishes additional requirements for the shipment of LPG in specification cylinders. Section 173.314 establishes requirements for compressed gases in tank cars and multi-unit tank cars and § 173.315 establishes requirements for compressed gases in cargo tanks and portable tanks. PHMSA is aware of several incidents possibly attributed to either the under-odorization or odorant fade of LPG. Most notable of these incidents is one that happened in Norfolk, MA on July 30, 2010 where an explosion occurred at a residential condominium complex that was under construction. Emergency responders from 21 cities/towns deployed personnel to the accident site. The accident resulted in seven injuries and one fatality.

The subsequent investigation raised questions as to whether there was a sufficient level of odorant in the LPG contained in the on-site storage tanks. In accordance with Federal and State laws and regulations, LPG intended for use by non-industrial entities is generally required to be odorized, or stenched, to enable the detection of any unintended release or leak of the gas. LPG is highly flammable and dangerous to inhale in large quantities. The added odorant is a safety precaution that helps warn those in the area that a release of gas has occurred. In the Norfolk incident, there appeared to be no warning, *i.e.* there was no noticeable evidence of odorant that would indicate the on-site LPG storage tank was leaking prior to the explosion. PHMSA has consulted with stakeholders from industry, fire fighter associations, and other regulatory agencies in order to better understand the root cause of incidents like the one in Norfolk. Although additional research may be necessary in order to come to more definitive conclusions, PHMSA has identified the following situations in which the risks of under-odorization or odorant fade are more likely to occur:

Injection Process: On December 13, 2012, PHMSA met with representatives from the National Propane Gas Association (NPGA) to gain a better understanding of the LPG odorization process. During this meeting, representatives from the NPGA stated that the most common method for the odorization of LPG is through an automated system. However, the NPGA also noted there are situations where the odorization process is manually performed. Preliminary investigations into the Norfolk, MA incident suggest that the lack of sufficient odorization rendered the LPG undetectable when the on-site storage tank began to leak. In situations where the injection process is not fully automated, the potential for human error may increase the possibility of under-odorization. We believe that the insufficient level of odorant in the LPG contained in the on-site storage tank involved in the Norfolk, MA incident was likely a major contributing factor in limiting the ability of on-site personnel to readily detect the leak.

[2] *https://www.ntsb.gov/doclib/safetystudies/SIR0901.pdf.*

[3] *http://phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/Files/NTSB%20Files/H_09_1_2_Original.pdf.*

New Tanks or Freshly Cleaned Tanks: During our meetings with various stakeholders, several indicated that a phenomenon known as ''odor fade'' may be a problem when new or recently cleaned tanks are used. New or recently cleaned tanks may absorb the odorant into the metal shell of these tanks leading to an ''odorant fade,'' and thus limiting the effectiveness of the remaining odorant in the LPG.

Odorization Standards: The odorization of LPG is addressed by Federal and state laws and regulations, as well as generally accepted industry standards and practices. When offered and transported in commerce, the HMR specifies that all LPG in cargo and portable tanks be effectively odorized using either 1.0 pound of ethyl mercaptan, 1.0 pound of thiopane, or 1.4 pounds of amyl mercaptan per 10,000 gallons of LPG, in the event of an unintended release or leak to indicate the presence of gas. The HMR do not, however, require LPG to be odorized if odorization would be harmful in the use or further processing of the LPG, or if odorization will serve no useful purpose as a warning agent in such use or further processing. Essentially, this exception applies to LPG being transported to industrial end-users.

Although the HMR requires odorization of LPG in cargo tanks and portable tanks, there are no such parallel requirements in the HMR for rail tank car tanks and cylinders. Therefore, in this NPRM, we are proposing to add new §§ 173.304a(d)(5) and 173.314(h) consistent with the revised text in § 173.315(b)(1) to address the odorization of LPG in cylinders and rail tank car tanks, respectively. We are also proposing to revise § 173.315(b)(1) to add a performance standard to address the issues of ''under odorization'' and ''odor fade.''

Section 173.306

This section provides exceptions from the HMR for compressed gases, including aerosols, when transported in limited quantities. In a final rule published May 14, 2010, under PHMSA–2009–0289 (HM–233A) [75 FR 27205], PHMSA added a new paragraph (k) to § 173.306 adopting provisions from DOT–SP 12842. These provisions authorized an increase in gross weight per package for the purpose of packaging discarded empty, partially used, and full aerosol containers to be transported to a recycling or disposal facility.

PHMSA received a request for a letter of interpretation (Ref. No. 12–0004) seeking confirmation that aerosols shipped for disposal or recycling in compliance with § 173.306(k) are permitted the same exceptions (*i.e.,* the marking and labeling requirements of Part 172 Subparts D and E respectively, and shipping paper requirements, unless it is a hazardous waste or hazardous substance, of 172 Subpart C) granted under §§ 173.306(i) and 173.156(b) without being reclassified as an ORM–D material. The requester also pointed out that under DOT–SP 12842, aerosols shipped for disposal or recycling were excepted from the marking, labeling and shipping paper requirements, unless they were considered a hazardous waste or hazardous substance, without being reclassified as an ORM–D material.

PHMSA stated that the intention of HM–233A was to adopt DOT–SP 12842 into the HMR as was designed. Therefore, in this rulemaking, we propose to amend § 173.306(k) by clarifying that aerosols shipped for recycling or disposal by motor vehicle, containing a limited quantity under the specific conditions provided in § 173.306(k), are afforded the applicable exceptions provided for ORM–D materials granted under §§ 173.306(i) and 173.156(b). The letter provides that, consistent with § 173.306(i), packages containing aerosols meeting the limited quantity requirements of § 173.306(k) must be marked in accordance with § 172.315(b). In addition, the letter also clarifies that the language ''INSIDE CONTAINERS COMPLY WITH PRESCRIBED REGULATIONS'' is required for shipments of aerosols shipped for disposal or recycling in compliance with paragraphs (a)(3), (a)(5), or (b)(1) of § 173.306.

Part 175

Section 175.1

This section describes the purpose, scope and applicability of Part 175 to air operations, specifically, the transportation of hazardous materials in commerce by air. Exceptions for certain aircraft operations are listed in § 175.9(b). Paragraph (b)(4) of § 175.9 excepts hazardous materials carried and used during dedicated air ambulance, firefighting, or search and rescue operations. To clarify that these operations are not subject to the HMR when in compliance with applicable Federal Aviation Regulations (FAR; 14 CFR) and any additional FAA requirements, PHMSA proposes to create a new paragraph (d) in § 175.1 stating that the HMR does not apply to dedicated air ambulance, firefighting, or search and rescue operations. This will eliminate any confusion that these air operations would otherwise be subject to requirements in the HMR (*e.g.,* passenger notification requirements). PHMSA also proposes to remove § 175.9(b)(4) for consistency.

As with other conditional exceptions to the HMR, non-compliance with the FAR could subject operators to enforcement under the HMR. PHMSA does not anticipate any adverse safety consequences with this proposed revision due to the existing training requirements in the FAR on the proper handling and stowage of hazardous materials carried onboard aircraft.

The FAA and PHMSA recognize that certain operators do not solely utilize their aircraft for purposes under § 175.9(b)(4). Normal transport operations (*i.e.,* the transport of either passengers or cargo not required for performance of, or associated with, the specialized emergency function) would continue to be subject to the HMR. However, staging operations and other operations related to dedicated air ambulance, firefighting, or search and rescue operations are intended to be excepted from the HMR when in compliance with the FAR. We note the following definitions in FAA Order 8900.1 (Vol. 3, Chapter 14, Section 1, 3–529(C)):

> (1) Firefighting. This term includes the drop of fire retardants, water, and smoke jumpers. It also includes the transport of firefighters and equipment to a fire or to a base camp from which they would be dispersed to conduct the firefighting activities.
>
> (2) Search and Rescue. Search and rescue is a term of art meaning aircraft operations that are flown to locate people who cannot be located from the ground. The term includes operations where the aircraft is indispensable to the search, or is the only feasible means of reaching the victim. Victims would be considered to be ''associated with'' the search and rescue operation. The term ''search and rescue'' does not include routine medical evacuation of persons due to traffic accidents and other similar incidents.

Air ambulance operators are required by the FAR to utilize either Operational Specification (OpSpec) A021 ((Helicopter Emergency Medical Services (HEMS) Operations) or A024 (Air Ambulance Operations-Airplane) and must obtain and adhere to the appropriate OpSpec to be excepted from the HMR.

Section 175.8

This section provides exceptions from certain regulations for air carrier operator equipment and items of replacement. Paragraph (b)(1) provides that oxygen, or any hazardous material used for the generation of oxygen, for

medical use by a passenger, which is furnished by the aircraft operator in accordance with certain 14 CFR requirements is not subject to the requirements of the HMR. The provisions of 14 CFR, § 125.219, Oxygen for medical use by passengers, was inadvertently left out of paragraph (b)(1). In this rulemaking, we are proposing to correct the paragraph by adding the appropriate 14 CFR, Part 125 citation.

Section 175.10

This section provides exceptions for passengers, crewmembers, and air operators. Paragraph (a) of this section lists a number of hazardous materials that are permitted for carriage by passengers or crewmembers provided the requirements of §§ 171.15 and 171.16 and the conditions of this section are met. PHMSA is proposing revisions to some of these provisions to promote clarity.

In paragraph (a)(6), hair curlers (curling irons) containing a hydrocarbon gas such as butane and carried in carry-on or checked baggage, are excepted from the requirements of the HMR. Gas refills for such curlers are not permitted in carry-on or checked baggage. In this NPRM, PHMSA proposes to prohibit such hair curlers in checked baggage. We believe the risk posed by flammable gases in an inaccessible compartment on a passenger-carrying aircraft is obvious. Flammable gases will burn if mixed with an appropriate amount of air and confined burning of a flammable gas can lead to detonation. As a result, we remain concerned with the flammability hazard posed by butane and other flammable gases and the ability of such gases to propagate or contribute to a fire in the cargo compartment of an aircraft. This concern is particularly relevant to carriage in checked baggage where damage to the curling iron and the subsequent release of a flammable gas may occur if the baggage is mishandled or the article itself is compromised.

Because of the risks posed by flammable gas, a number of safety requirements apply to cargo shipments of flammable gas on passenger-carrying aircraft. Most Division 2.1 flammable gas substances and articles are generally forbidden from transportation as cargo aboard passenger-carrying aircraft and prohibiting the carriage of butane-powered curling irons in checked baggage is consistent with this provision. In the area of aviation safety, where the high volume of travel and the catastrophic consequences of failure lead to a very low tolerance for risk, we firmly believe the known risks of flammable gas are sufficient basis for our decision. We solicit public comment on any impact our proposed action may impose upon passengers, crew members, and air operators.

In paragraph (a)(22) of this section, non-infectious specimens transported in accordance with § 173.4b(b) (de minimus quantities) are permitted for carriage by passengers or crewmembers. PHMSA is clarifying this exception to include the phrase ''in preservative solutions'' to clarify the intended use of this exception. Non-infectious substances would not otherwise be subject to the HMR if they did not otherwise meet the definition of any other hazard classes. This clarification will signal that the exception refers to specimens in solutions that may contain preservatives that are hazardous materials such as formaldehyde and alcohol solutions.

Additionally PHMSA is revising paragraph (a)(24) of this section, which refers to small cartridges of carbon dioxide or other suitable gas of Division 2.2. The exception states that small cartridges fitted into devices with no more than four small cylinders are permitted. This is inconsistent with the ICAO TI, which permits cartridges for other devices indicating that spares are permitted. As § 175.10(a)(24) currently reads, there is no mention of spare cartridges. The HMR currently permits up to four small cartridges and therefore, PHMSA is proposing to revise this paragraph to state that small cartridges fitted into or securely packed with devices with no more than four small cylinders of carbon dioxide or other suitable gas in Division 2.2 are permitted for carriage by passengers or crewmembers. This change will harmonize with international standards to clarify that spares are permitted in addition to the cartridges already fitted into the device, provided they are securely packed with the devices for intended use.

Section 175.75

This section describes the quantity limitations and cargo locations for carriage by aircraft. Paragraph (e)(2) excepts packages of hazardous materials transported aboard a cargo aircraft, when other means of transportation are impracticable or not available, in accordance with procedures approved in writing by the FAA Regional or Field Security Office in the region where the operator is located from the requirements of paragraphs (c) and (d) of § 175.75. PHMSA is revising this paragraph by removing the word ''located'' and adding the word ''certificated'' in its place. The words ''or Field Security'' are also removed. This amendment will ensure operators interact with the Hazardous Materials Division Manager (HMDM) who has already reviewed and recommended for approval the certificate's HazMat-related manual(s) required under 14 CFR 14 CFR 121.135. The HMDM (or designee) will already have an understanding of the certificate's operations and, as needed, will interact with the local resources and/or the operator's certificate management team to assess the impracticability or lack of availability of other cargo operations—as well as what alternative procedures should be prescribed.

Part 176

Section 176.30

This section prescribes the information required on dangerous cargo manifests for vessel transport. Paragraph (a)(4) requires ''the number and description of packages (barrels, drums, cylinders, boxes, etc.) and gross weight for each type of packaging.'' In this rulemaking, we are proposing to replace the word ''packaging'' with ''package'' as the term ''packaging'' refers to the means of containment and not the completed package.

Part 177

Section 177.848

This section addresses segregation requirements for hazardous materials transported by motor carrier. PHMSA received a request for a letter of interpretation (Ref. No. 09–0268) requesting clarification whether ''UN0042, Boosters, 1.1D, PG II'' and ''UN1942, Ammonium nitrate, 5.1, PG III'' can be transported in the same vehicle. The requester noted seemingly conflicting requirements in §§ 177.835 and 177.848 applicable to the segregation of ammonium nitrate fertilizer and explosive materials.

Section 177.848(e) provides instructions for using the segregation table in § 177.848(d). Presently, under § 177.848(e)(5) assignment of note ''A'' authorizes ammonium nitrate (UN1942) and ammonium nitrate fertilizer to be loaded or stored with Division 1.1 (explosive) or Division 1.5 materials. However, § 177.835(c) provides that Division 1.1 or 1.2 (explosive) materials may not be loaded into or carried on any vehicle or a combination of vehicles under certain conditions outlined in paragraphs (c)(1) through (c)(4). PHMSA clarified in the letter that a Division 1.1 or 1.2 explosive may not be loaded into or carried on any vehicle or a combination of vehicles that does not conform to §§ 177.835(c)(1) through (4), regardless of the note ''A'' exception for

UN1942 in § 177.848(e)(5). In this rulemaking, we are proposing to clarify that the loading restrictions in § 177.835(c)(1) through (4) are applicable to § 177.848(e).

Part 178

Section 178.65

This section applies to the manufacture of DOT Specification 39 non-reusable (non-refillable) cylinders. Paragraph (i) of this section describes the required markings for DOT 39 cylinders. The reference to § 178.35(h) in § 178.65(i)(1) is incorrect, as § 178.35(h) was removed under a final rule published July 20, 2011 (Docket No. PHMSA–2009–0151 (HM–218F). The final rule consolidated the inspector's report requirements found in § 178.35(g) into paragraph (c)(4) of that section, moved the manufacturer's report retention requirements into paragraph (g) and removed paragraph (h). PHMSA is proposing to revise § 178.65(i)(1) to correctly reference the manufacturer's report requirements in § 178.35(g).

Section 178.337–17

This section prescribes the marking requirements applicable to MC 331 cargo tank motor vehicles. Paragraph (a) of this section outlines general requirements for marking of MC 331 cargo tank motor vehicles. PHMSA received a request for a letter of interpretation to clarify the applicability of these markings in § 178.337–17(a) (Ref. No. 04–0206). The request pointed out an incorrect use of the term cargo tank as it applies to the requirement for specification plates found in paragraph (a), which states that:

''Each cargo tank certified after October 1, 2004 must have a corrosion-resistant metal name plate (ASME Plate) and specification plate permanently attached to the cargo tank by brazing, welding or other suitable means on the left side near the front, in a place accessible for inspection.''

In response, we stated that an MC 331 cargo tank must have a metal name plate (also referred to as an ASME plate) permanently attached to the cargo tank. In addition, an MC 331 cargo tank motor vehicle certified after October 1, 2004, must have a specification plate that includes the information specified in § 178.337–17(c). PHMSA is proposing to clarify § 178.337–17(a) to eliminate confusion of the name plate and specification plate requirements.

Section 178.345–3

This section prescribes general requirements for the structural integrity of specification cargo tanks. Paragraph (c)(1) of this section addresses stress in the cargo tank shell resulting from normal operating loadings. PHMSA published a final rule on October 2, 2013 (Docket No. PHMSA–2013–0158 (HM–244F); 78 FR 60745; effective October 1, 2013) intending to correct the formula presented in paragraph (c)(1) for the figure ''S_S2'' to read ''SS^2.'' This correction correctly adjusted the standard ''2'' in the term to be a superscript ''^{2},'' but inadvertently adjusted the second ''S'' from a subscript ''$_S$'' to a standard ''S.'' This is incorrect and PHMSA is proposing to revise this portion of the formula in § 178.345–3(c)(1) to read ''S_S^2.''

Section 178.955

This section prescribes the design and testing criteria for Large Packagings. Presently, if a manufacturer of a Large Packaging wishes to construct a Large Packaging that differs from a listed specification there is no Associate Administrator approval provision outlined in the HMR. However, the HMR allude to the need for an approval in the Large Packaging marking requirements in § 178.910(a)(1)(ii). The HMR has approval provisions in Part 178 for manufacturers of both non-bulk packagings and IBCs when constructing packagings that differ from listed specifications. In this rulemaking, we are proposing to include provisions consistent with the non-bulk packaging and IBC approval provisions for Large Packagings in § 178.955. Such Large Packagings must be shown to be equally effective, and testing methods used must be equivalent. This change will resolve the issue with § 178.910(a)(1)(ii) and would be consistent with the UN Model Regulations and the IMDG Code, which provide approval provisions for non-bulk packagings, IBCs, and Large Packagings.

Part 179

Section 179.13

This section includes limitations on rail tank car capacity and gross weight. With certain exceptions, this section generally limits the gross weight on rail of tank cars to 263,000 pounds. This section has been revised numerous times over the last several years. In 2009, PHMSA added paragraph (b) to this section authorizing tank cars designed to transport poisonous-by-inhalation (PIH) materials and built with certain mandated safety improvements (tank cars meeting the specifications of § 173.244(a)(2) or (3) or § 173.314(c) or (d)) to have a gross weight on rail of up to 286,000 pounds provided any weight increase was not used to increase product capacity. 74 FR 1770 (Jan. 13, 2009). Subsequently, in an effort to incorporate several widely used special permits providing relief from the gross weight limitations of § 179.13, PHMSA revised the section to provide FRA the authority to approve the operation of tank cars containing materials other than PIH materials at gross weights of up to 286,000 pounds. 75 FR 27205 (May 14, 2010). FRA published notice of its approvals under this section on January 25, 2011. 76 FR 4250.

In 2011, noting that the agency's stated intent in the 2010 rule was to incorporate into the HMR existing special permits related to tank car gross weight for tank cars carrying both non-PIH materials and PIH materials by giving FRA authority to approve tank car weights up to 286,000 pounds for both types of tank cars, PHMSA proposed to revise § 179.13 to correct the omission of PIH material tank cars from FRA's approval authority. See 76 FR 51324, 51331. However, when adopted as a final rule, the regulatory language did not correct this inadvertent omission. See 77 FR 37962, 37985 (HM–218B) (June 25, 2012). Instead, in the final HM–218B rule, § 179.13 was revised to provide that tank cars designed to transport PIH materials and built with the mandated safety improvements set forth in § 173.244(a)(2) or (3) or § 173.314(c) or (d)) ''may have a gross weight on rail of up to 286,000 pounds upon approval by the Associate Administrator for Railroad Safety, FRA.'' As clearly demonstrated by the 2009 and 2010 rules, it was not the intent of either PHMSA or FRA to require FRA approval of tank cars built to the enhanced standards of § 173.244(a)(2) or (3) or § 173.314(c) or (d) for those cars to operate at a gross rail load of 286,000 pounds. Accordingly, in this rule PHMSA is proposing to revise § 179.13 to correct this error and (1) make it clear that tank cars built to the enhanced standards of § 173.244(a)(2) or (3) or § 173.314(c) or (d) do not need FRA approval to operate at gross rail loads of up to 286,000 pounds; and (2) to provide for FRA approval of tank cars containing PIH materials that do not meet the enhanced standards to operate at gross rail loads of up to 286,000 pounds.

Part 180

Section 180.209

This section prescribes requalification requirements for DOT specification cylinders. Paragraph (j) contains a reference to an obsolete special provision. In a January 7, 2013 final rule (78 FR 1101), we removed and relocated

regulatory text from § 172.102(c)(1) Special Provision 18 to § 173.309(a), which prescribes the conditions when specification cylinders may be described, offered, and transported in commerce as fire extinguishers. In relocating the text, we did not update this section to reflect the change. In this rulemaking, we are proposing to correct this inconsistency by replacing the reference to § 172.102(c)(1) Special Provision 18 with § 173.309(a).

Section 180.401

This section provides the applicability of the requirements of Subpart E of Part 180. It states that Subpart E prescribes requirements, in addition to those contained in Parts 107, 171, 172, 173 and 178 of this subchapter, applicable to any person responsible for the continuing qualification, maintenance or periodic testing of a cargo tank.

The term ''person,'' as defined in § 171.8, means an individual, corporation, company, association, firm, partnership, society, joint stock company; or a government, Indian tribe, or authority of a government or tribe offering a hazardous material for transportation in commerce or transporting a hazardous material to support a commercial enterprise. This term does not include the United States Postal Service or, for purposes of 49 U.S.C. 5123 and 5124, a Department, agency, or instrumentality of the government.

The intent of § 180.401 is to require a person involved with continuing qualification, maintenance or periodic testing of a cargo tank to comply with the requirements of Subpart E, even if they are not offering a hazardous material for transportation in commerce or transporting a hazardous material to support a commercial enterprise. In this rulemaking, we are proposing to revise the term ''person'' to ''hazardous materials employee or hazardous materials employer.'' This will clarify that Subpart E of Part 180 not only applies to persons offering hazardous materials for transportation or transporting a hazardous material, but also those involved with qualification, maintenance or periodic testing.

V. Regulatory Analyses and Notices

A. Statutory/Legal Authority for This Rulemaking

This NPRM is published under authority of Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*). Section 5103(b) of Federal hazardous materials law authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous materials in intrastate, interstate, and foreign commerce. If adopted as proposed, this NPRM would make miscellaneous amendments to the HMR, correct errors in the § 172.101 HMT and corresponding special provisions, and respond to NTSB Safety Recommendations related to the safe transportation of manifolded acetylene cylinders.

Additionally, this NPRM will respond to petitions for rulemaking related to the allowable format for emergency telephone numbers on shipping papers, relax the pressure test interval for certain cargo tanks in dedicated propane service, enhance the safe packaging for nitric acid, clarify the testing requirements for specification cargo tank pressure relief devices, harmonize the hazard communication requirements for poisonous by inhalation materials transported by vessel and eliminate a potentially confusing packing group designation for certain organic peroxides, self-reactive materials and explosives. These amendments clarify regulatory requirements and, where appropriate, decrease the regulatory burden without compromising the safe transportation of hazardous materials in commerce.

B. Executive Order 12866, Executive Order 13563 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant regulatory action under section 3(f) and was not reviewed by the Office of Management and Budget (OMB). The proposed rule is not considered a significant rule under the Regulatory Policies and Procedures order issued by the Department of Transportation [44 FR 11034].

In this notice of proposed rulemaking, we propose to amend miscellaneous provisions in the HMR to clarify the provisions and to relax overly burdensome requirements. PHMSA anticipates the proposals contained in this rule will have economic benefits to the regulated community. This NPRM is designed to increase the clarity of the HMR, thereby increasing voluntary compliance while reducing compliance costs.

Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review that were established in Executive Order 12866 Regulatory Planning and Review of September 30, 1993. In addition, Executive Order 13563 specifically requires agencies to: (1) Involve the public in the regulatory process; (2) promote simplification and harmonization through interagency coordination; (3) identify and consider regulatory approaches that reduce burden and maintain flexibility; (4) ensure the objectivity of any scientific or technological information used to support regulatory action; and (5) consider how to best promote retrospective analysis to modify, streamline, expand, or repeal existing rules that are outmoded, ineffective, insufficient, or excessively burdensome.

In this NPRM, PHMSA has involved the public in the regulatory process in a variety of ways. Specifically, PHMSA is addressing issues and errors that were identified for future rulemaking in letters of interpretation and through other correspondence with PHMSA stakeholders who bring editorial errors in the HMR to our attention. In addition, PHMSA has responded to seven petitions for rulemaking and two NTSB Safety Recommendations. PHMSA is asking for public comments based on the proposals in this NPRM. Upon receipt of public comment, PHMSA will address all substantive comments in the next rulemaking action under this docket number.

The proposed amendments in the NPRM promote simplification and harmonization through interagency coordination. In this NPRM, PHMSA is proposing to revise 49 CFR part 175, in a collaborative effort with the Federal Aviation Administration (FAA), to clarify the applicability of the HMR to certain aircraft operators, clarify exceptions for passengers and crewmembers, correct inaccurate references to the 14 CFR, as well as make minor editorial corrections applicable to air operations to improve overall clarity. There are minimal additional costs associated with these proposals, however increased clarity will result in net benefits. Additionally, by updating references to the AAR Tank Car Manual in § 171.7, PHMSA worked collaboratively with FRA, promoting interagency coordination.

This NPRM also promotes harmonization with international standards, such as the IMDG Code, Canada's TDG requirements and the ICAO TI. These efforts include:

- Harmonizing hazard communication for poisonous-by-inhalation materials with the IMDG Code and TDG regulations;
- Removing the packing group II designation for certain organic peroxides, self-reactive substances and explosives to be consistent with the UN Recommendations, IMDG Code and

ICAO TI and thus, facilitate international transport;

- Harmonizing entries in the HMT with the above listed international standards;
- Revising the passenger exceptions applicable to small cartridges containing Division 2.2 gas with the ICAO TI; and
- Harmonizing the excepted quantities requirements to mirror language employed in the ICAO TI as they apply to articles.

These revisions to the § 172.101 HMT will eliminate errors in the § 172.101 HMT, reduce ambiguity, harmonize the HMR with international regulations, and improve clarity. Although these revisions are minor, they are expected to produce a safety benefit derived from the increased clarity and accuracy of the text in the § 172.101 HMT.

This NPRM permits flexibility in achieving compliance when transporting damaged wet electric storage batteries. This NPRM also extends the requalification interval for certain MC 331 cargo tanks in dedicated propane service from five years to ten years for a pressure test and internal visual inspection, therefore, fostering greater regulatory flexibility without compromising transportation safety. PHMSA is also clarifying the regulations to provide flexibility in the ability to use the NOT-ODORIZED or NON-ODORIZED marking on cargo tanks, cylinders and portable tanks containing odorized or unodorized LPG. Additionally, by allowing 100 pounds of black or smokeless powder for small arms reclassed as Division 4.1 in each transport vehicle, instead of each motor vehicle, the regulated community can reduce the number of motor vehicles needed to transport these goods.

Where PHMSA identified potential costs to stakeholders, specific comment was requested to clarify such costs. We request specific comment on potential cost impacts of the proposals in § 172.604 and § 173.158(e).

A majority of the amendments in this rulemaking are simple clarifications and do not require significant scientific or technological information. However, when necessary in this NPRM, PHMSA used scientific or technological information to support its regulatory action. Specifically, such data was considered when structuring alternatives on how to best deal with issues regarding the testing of pressure relief devices for cargo tank motor vehicles and extending the pressure test and internal visual inspection test interval from five to ten years for certain MC 331 cargo tanks in dedicated propane delivery service. This information was used in the evaluation of alternative proposals and ultimately this information determined how best to promote retrospective analysis to modify and streamline existing requirements that are outmoded, ineffective, insufficient, or excessively burdensome.

C. Executive Order 13132

This proposed rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This proposed rule would preempt state, local and Indian tribe requirements but does not propose any regulation that has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous material transportation law, 49 U.S.C. 5125(b)(1), contains an express preemption provision (49 U.S.C. 5125(b)) preempting state, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(i) The designation, description, and classification of hazardous materials;

(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(iii) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, content, and placement of those documents;

(iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; or

(v) The design, manufacture, fabrication, marking, maintenance, reconditioning, repair, or testing of a packaging or container which is represented, marked, certified, or sold as qualified for use in the transport of hazardous materials.

This proposed rule concerns the classification, packaging, and handling of hazardous materials, among other covered subjects. If adopted, this rule would preempt any state, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are ''substantively the same'' (see 49 CFR 107.202(d) as the Federal requirements.)

Federal hazardous materials transportation law provides at 49 U.S.C. 5125(b)(2) that if PHMSA issues a regulation concerning any of the covered subjects, PHMSA must determine and publish in the **Federal Register** the effective date of Federal preemption. That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. PHMSA proposes the effective date of federal preemption be 90 days from publication of a final rule in this matter in the **Federal Register**.

D. Executive Order 13175

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this proposed rule does not have tribal implications and does not impose substantial direct compliance costs on Indian tribal governments, the funding and consultation requirements of Executive Order 13175 do not apply, and a tribal summary impact statement is not required.

E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines the rule is not expected to have a significant impact on a substantial number of small entities. This proposed rule would clarify provisions based on PHMSA's initiatives and correspondence with the regulated community. The proposed changes are generally intended to provide relief to shippers, carriers, and packaging manufacturers, including small entities, by easing overly burdensome requirements with no reduction in safety.

Consideration of alternative proposals for small businesses. The Regulatory Flexibility Act directs agencies to establish exceptions and differing compliance standards for small businesses, where it is possible to do so and still meet the objectives of applicable regulatory statutes. In the case of hazardous materials transportation, it is not possible to establish exceptions or differing standards and still accomplish our safety objectives.

The impact of this proposed rule is not expected to be significant. The proposed changes are generally intended to provide relief to shippers, carriers, and packaging manufactures and testers, including small entities. This relief will provide marginal positive economic benefits to shippers, carriers, and packaging manufactures and testers, including small entities. These benefits are not at a level that can be considered economically significant;

therefore, this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule has been developed in accordance with Executive Order 13272 (''Proper Consideration of Small Entities in Agency Rulemaking'') and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered.

F. Paperwork Reduction Act

PHMSA currently has an approved information collection under Office of Management and Budget (OMB) Control Number 2137–0557, entitled ''Approvals for Hazardous Materials.'' This proposed rule does not propose any changes that would affect the burden for this or any other information collection.

Prior to the publication of a final rule entitled ''Hazardous Materials: Revisions to Fireworks Regulation'' under Docket No. PHMSA–2010–0320 (HM–257) published in the **Federal Register** on July, 6 2013 [78 FR 42457], the HMR contained a requirement that all certification agencies provide a statement that it would perform its functions independent of the owners and manufacturers of the packagings in its field. The burden for this requirement was accounted for under OMB Control Number 2137–0557. However, the HM–257 final rule inadvertently removed this language from the HMR. Therefore, in this NPRM, PHMSA is proposing to reinsert the language for certification agencies to confirm that they are independent and not owned by a company in its field. For ease of the reader, this language is being proposed to be inserted as follows:

- PHMSA is proposing to revise § 107.402(f) to require that a portable tank and MEGC certification agency submit a statement indicating that the agency is independent of and not owned by a portable tank or MEGC manufacturer, owner, or distributor as part of the Portable tank and MECG Certification Agency application.
- PHMSA is proposing to revise § 107.402(e) to require that a lighter certification agency submit a statement that the agency is independent of and not owned by a lighter manufacturer, distributor, import or export company, or proprietorship as part of the Lighter Certification Agency application.
- PHMSA is proposing to revise § 107.807 to require that person who seeks to manufacture DOT specification cylinders and special permit cylinders, or perform chemical analysis and tests of those cylinders outside the United States submits a statement, as part of the application, indicating that the inspection agency is independent of and not owned by a cylinder manufacturer, owner, or distributor.

G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

H. Unfunded Mandates Reform Act

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $141,300,000 or more to either state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

I. Environmental Assessment

The National Environmental Policy Act of 1969, 42 U.S.C. 4321–4375, requires that federal agencies analyze proposed actions to determine whether the action will have a significant impact on the human environment. The Council on Environmental Quality (CEQ) regulations require federal agencies to conduct an environmental review considering (1) the need for the proposed action, (2) alternatives to the proposed action, (3) probable environmental impacts of the proposed action and alternatives, and (4) the agencies and persons consulted during the consideration process (40 CFR 1508.9(b)).

This NPRM would amend the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) by making miscellaneous revisions to update and clarify certain regulatory requirements, responds to seven petitions for rulemaking submitted to PHMSA by various stakeholders, and addresses two NTSB recommendations. These amendments are intended to promote safety, regulatory relief, and clarity. The proposed changes were identified through an internal review of the HMR as well as in response to communications with various stakeholders affected by the HMR, through letters of interpretation and editorial issues being brought to our attention. These proposed minor changes will clarify the HMR and enhance safety, while offering net economic benefits.

This action is necessary to: (1) Fulfill our statutory directive to promote transportation safety; (2) fulfill our statutory directive under the Administrative Procedure Act (APA) that requires Federal agencies to give interested persons the right to petition an agency to issue, amend, or repeal a rule (5 U.S.C. 553(e)); (3) support governmental efforts to provide regulatory relief to the regulated community; (4) address safety concerns raised by the NTSB and remove regulatory ambiguity identified by the regulated community; and (5) simplify and clarify the regulations in order to promote understanding and compliance.

The intended effect of this action is to enhance the safe transportation of hazardous materials and, in conjunction, clarify, simplify and relax certain regulatory requirements for carriers, shippers, and other stakeholders. These regulatory revisions will offer more efficient and effective ways of achieving safe and secure transportation of hazardous materials in commerce.

Description of Action: Docket No. PHMSA–2013–0225 (HM–218H), NPRM

Transportation of hazardous materials in commerce is subject to requirements in the HMR, issued under authority of Federal hazardous materials transportation law, codified at 49 U.S.C. 5001 *et seq.* To facilitate the safe and efficient transportation of hazardous materials in international commerce, the HMR provide that both domestic and international shipments of hazardous materials may be offered for transportation and transported under provisions of the international regulations.

In proposing this rulemaking, PHMSA is considering the following alternatives:

Alternative 1: No Action

If PHMSA chose this alternative, it would not proceed with any rulemaking on this subject and the current regulatory standards would remain in effect. This option would not address outstanding petitions for rulemaking or NTSB Safety Recommendations. We rejected the no action alternative.

Alternative 2: Go Forward With the Proposed Amendments to the HMR in This NPRM

This alternative is the current proposal as it appears in this NPRM, applying to transportation of hazardous materials by various modes (highway, rail, vessel and aircraft). The proposed amendments encompassed in this alternative are more fully addressed in

the preamble and regulatory text sections. However, they generally include the following changes to the HMR, grouped below for ease of discussion:

Incorporation by Reference and Use of International Standards:

• Remove the entry for CGA Publication C–1.1 in Table 1 to § 171.7.

• Incorporate by reference in § 171.7 CGA Publication G–1.6, *Standard for Mobile Acetylene Trailer Systems,* Seventh Edition (responds to petition P–1605 and two NTSB Safety Recommendations, H–09–01 and H–09–02).

• Incorporate by reference in § 171.7 AAR Manual of Standards and Recommended Practices, Section C–III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars).

• Amend the marking requirements for poisonous by inhalation shipments transported in accordance with the IMDG Code or TDG Regulations (responds to petition for rulemaking P–1591).

§ 172.101 Hazardous Materials Table and § 172.102 Special Provisions:

• Remove the packing group II designation for certain organic peroxides, self-reactive substances and explosives (responds to petition for rulemaking P–1590).

• Revise the § 172.101 table to add Special Provision B120 to column 7 for the entry ''Calcium nitrate, UN1454.''

• Revise the entry for ''Propellant, solid, UN0501'' to remove vessel stowage provision 24E from column 10B of the HMT.

• Revise the packing group II HMT entry for UN 2920, Corrosive liquids, flammable, n.o.s., to harmonize the HMR with the UN Model Regulations, IMDG Code and the ICAO TI by adding a reference to § 173.154 to column 8A of the HMT.

• Revise the entry for ''Oxidizing solid, corrosive, n.o.s., UN 3085, PG II'' to harmonize the HMR with the UN Model Regulations, the IMDG Code and the ICAO TI by adding a reference to § 173.152 to column 8A of the HMT.

• Revise the HMT entries for ''Trinitrophenol (picric acid), wetted, with not less than 10 percent water by mass, UN 3364'' and ''Trinitrophenol, wetted with not less than 30 percent water, by mass, UN 1344'' to harmonize the HMR with the UN Model Regulations, IMDG Code, and the ICAO TI to clarify that the 500 gram limit per package does not apply to UN 1344 but does apply to UN 3364.

• Revise Special Provision 136, for Dangerous goods in machinery or apparatus, in § 172.102 to include reference to subpart G of part 173.

• Remove reference to obsolete Special Provision 18 for the HMT entry ''UN 1044, Fire extinguishers'' and in § 180.209(j).

Hazard Communication (Marking, Labeling, Placarding, Emergency Response):

• Correct a reference in § 172.201 to exceptions for the requirement to provide an emergency response telephone number on a shipping paper.

• Revise §§ 172.301(f), 172.326(d) and 172.328(e) to include the clarification that the NOT-ODORIZED or NON-ODORIZED marking may appear on packagings used for both unodorized and odorized LPG, and remove the effective date of October 1, 2006 if it appears these paragraphs, as the effective date has passed.

• Amend § 172.406(d) by expressly authorizing the use of labels described in subpart E with a dotted or solid line outer border on a surface background of contrasting color.

• Amend the address in § 172.407(d)(4)(ii) to read Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

• Clarify the marking size requirements for an IBC that is labeled instead of placarded by replacing the bulk package marking reference in § 172.514(c) with the non-bulk marking reference, § 172.301(a)(1).

• Require that emergency response telephone numbers be displayed on shipping papers numerically (responds to petition for rulemaking P–1597).

Shipper Requirements:

• Revise § 173.4a(a) to clarify that articles (including aerosols) are not eligible for excepted quantity reclassification under § 173.4a, although some are eligible to be shipped as small quantities by highway and rail in § 173.4.

• Revise § 173.21(e) to include the prohibition of transporting or offering for transport materials in the same transport vehicle (*e.g.* trailer, rail car) with another material, the mixing of which is likely to cause a dangerous evolution of heat, flammable or poisonous gases or vapors, or to produce corrosive materials.

• Clarify that the requirements provided in paragraph § 173.24a(c)(1)(iv) do not apply to limited quantities packaged in accordance with § 173.27(f)(2).

• Clarify the quantity limits for mixed contents packages prepared in accordance with § 173.27(f)(2).

• Clarify the requirements applicable to bulk transportation of combustible liquids by adding § 173.150(f)(3)(xi) stating that the registration requirements in subpart G of part 107 is applicable and revising §§ 173.150(f)(3)(ix) and 173.150(f)(3)(x) for punctuation applicable to a listing of requirements.

• Require that certain shipments of nitric acid utilizing glass inner packagings be contained in intermediate packaging (responds to petition for rulemaking P–1601).

• Add a new paragraph (j) in § 173.159 to address the need for provisions that allow shippers to prepare for transport and offer into transportation damaged wet electric storage batteries.

• Revise § 173.166(e)(6) to add the words ''or cargo vessel.''

• Revise §§ 173.170 and 173.171 by changing the term motor vehicle to transport vehicle to allow for motor vehicles comprised of more than one cargo-carrying body to carry 100 pounds of black or smokeless powder reclassed as Division 4.1 in each cargo-carrying body instead of 100 lbs total in the motor vehicle.

• Revise the provisions in § 173.199(a)(4) by removing the reference to the steel rod impact test in § 178.609(h).

• Amend the bulk packaging section reference in Column (8C) of the HMT from § 173.240 to § 173.216 for the entries NA2212, UN2212, and UN2590. In addition, we are proposing to revise paragraph (c)(1) in § 173.216 by authorizing the use of bulk packages prescribed in § 173.240.

• Amend § 173.306(k) to clarify that aerosols shipped for recycling or disposal by motor vehicle containing a limited quantity are afforded the applicable exceptions provided for ORM–D materials granted under §§ 173.306(i) and 173.156(b).

Modal Requirements (Air, Vessel, and Highway):

• Create a new paragraph (d) in § 175.1, stating that this subchapter does not apply to dedicated air ambulance, firefighting, or search and rescue operations.

• Correct § 175.8 by adding the appropriate 14 CFR, Part 125 citations.

• Clarifying exceptions for passengers, crewmembers, and air operators in paragraphs (a)(18), (a)(22), and (a)(24) of § 175.10.

• Clarify § 175.75(e)(2) by replacing the word ''located'' with ''certificated.''

• Clarify § 176.30(a)(4) by replacing the word ''packaging'' with ''package.''

• Clarify that the loading restrictions in § 177.835(c)(1) through (4) area applicable to § 177.848(e).

Packaging design and requalification:

• Revise § 178.65(i)(1) to correctly reference the manufacturer's report requirements in § 178.35(g).

• Clarify § 178.337–17(a) to eliminate confusion of the name plate and specification plate requirements.

• Correct an inadvertent editorial error in the formula in § 178.345–3(c)(1).

• Include provisions consistent with the non-bulk packaging and IBC approval provisions for Large Packagings in § 178.955.

• Clarify the applicability to subpart E in § 180.401 by revising the term ''person'' to ''hazmat employee or hazmat employer.''

• Extend the pressure test and internal visual inspection test interval to ten years for certain MC 331 cargo tanks in dedicated propane delivery service (responds to petition for rulemaking P–1604).

• Clarify the requirements applicable to the testing of pressure relief devices for cargo tank motor vehicles (responds to petition for rulemaking P–1609).

Probable Environmental Impacts of the Alternatives:

Background: Hazardous materials are substances that may pose a threat to public safety or the environment during transportation because of their physical, chemical, or nuclear properties. The hazardous materials regulatory system is a risk management system that is prevention-oriented and focused on reducing the probability and quantity of a hazardous material release. Hazardous materials are categorized by hazard analysis and experience into hazard classes and packing groups. The regulations require each shipper to classify a material in accordance with these hazard classes and packing groups. The process of classifying a hazardous material is itself a form of hazard analysis. Further, the regulations require the shipper to communicate a material's hazards through use of the hazard class, packing group, and proper shipping name on the shipping paper and the use of labels on packages and placards on transport vehicles. Thus, the shipping paper, labels, and placards communicate the most significant findings of the shipper's hazard analysis. A hazardous material is assigned to one of three packing groups based upon its degree of hazard, from a high hazard, Packing Group I to a low hazard, Packing Group III material. The quality, damage resistance, and performance standards of the packaging in each packing group are appropriate for the hazards of the material transported.

Under the HMR, hazardous materials are transported by aircraft, vessel, rail, and highway. The potential for environmental damage or contamination exists when packages of hazardous materials are involved in accidents or en route incidents resulting from cargo shifts, valve failures, package failures, loading, unloading, collisions, handling problems, or deliberate sabotage. The release of hazardous materials can cause the loss of ecological resources (*e.g.* wildlife habitats) and the contamination of air, aquatic environments, and soil. Contamination of soil can lead to the contamination of ground water. Compliance with the HMR substantially reduces the possibility of accidental release of hazardous materials.

When developing potential regulatory requirements, PHMSA evaluates those requirements to consider the environmental impact of each amendment. Specifically, PHMSA evaluates the risk of release and resulting environmental impact, risk to human safety, including any risk to first responders, longevity of the packaging, and potential impact of a proposed regulation in a defined area. We have determined that most of the regulatory changes proposed in this rulemaking are editorial in nature. As such, these amendments have no impact on the risk of release and resulting environmental impact, human safety, longevity of the packaging, and none of these amendments would be carried out in a defined geographic area. General possible environmental benefits, and detriments, are discussed below.

Alternative 1: No Action

If PHMSA were to select the No Action Alternative, current regulations would remain in place, and no new provisions would be added. However, this option would not address outstanding petitions for rulemaking, NTSB Safety Recommendations or consider amendments based on PHMSA's own initiatives intended to update, clarify, or provide relief from certain existing regulatory requirements. Foregone efficiencies in the No Action Alternative also include freeing up limited resources to concentrate on hazardous materials transportation issues of potentially much greater environmental impact.

Additionally, the Preferred Alternative encompasses enhanced and clarified regulatory requirements, which would result in increased compliance and fewer environmental and safety incidents. Not adopting the proposed environmental and safety requirements in the NPRM under the No Action Alternative would result in a lost opportunity for reducing environmental and safety-related incidents.

Greenhouse gas emissions would remain the same under the No Action Alternative.

Alternative 2: Go Forward With the Proposed Amendments to the HMR in This NPRM

If PHMSA selects the provisions as proposed in this NPRM, we believe that safety and environmental risks would be reduced and that protections to human health and environmental resources would be increased.

Enhanced environmental protection will also be achieved through more targeted and effective training. This proposed set of amendments will eliminate inconsistent hazardous materials regulations, which hamper compliance training efforts. By maintaining consistency between these international regulations and the HMR, shippers and carriers are able to train their hazardous materials employees in a single set of requirements for classification, packaging, hazard communication, handling, and stowage, thereby minimizing the possibility of improperly preparing and transporting a shipment of hazardous materials because of differences between domestic and international regulations. This proposed set of amendments will create more streamlined hazardous regulations, resulting in compliance training efforts which facilitate the regulated community's ability to comply with the HMR. Potential environmental impacts of each proposed group of amendments in Alternative 2 (selected for NPRM) are discussed individually below.

Incorporation by Reference and Use of International Standards:

PHMSA believes that this proposed set of amendments, which will increase standardization and consistency of regulations, will result in greater protection of human health and the environment. Consistency between US and international regulations enhances the safety and environmental protection of international hazardous materials transportation through better understanding of the regulations, an increased level of industry compliance, the smooth flow of hazardous materials from origin to destination, and consistent emergency response in the event of a hazardous materials incident. Incorporation of the *CGA Publication G–1.6, Standard for Mobile Acetylene Trailer Systems,* will mitigate acetylene release and enhance environmental protection during overturn incidents

and unloading. Incorporation of AAR Manual of Standards and Recommended Practices, Section C–III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars) and certain subsequent amendments will update the previously incorporated 2000 edition ensuring increased safety through compliance with revised tank car standards.

Current greenhouse gas emissions would be unaffected under this proposed set of amendments.

Section 172.101 Hazardous Materials Table and § 172.102 Special Provisions:

PHMSA believes that this proposed set of amendments, which will increase standardization and consistency of regulations, will result in greater protection of human health and the environment. Consistency between U.S. and international regulations enhances the safety and environmental protection of international hazardous materials transportation through better understanding of the regulations, an increased level of industry compliance, the smooth flow of hazardous materials from their points of origin to their points of destination, and consistent emergency response in the event of a hazardous materials incident. New and revised entries to the HMT reflect emerging technologies, and a need to better describe or differentiate between existing entries. These proposed changes mirror changes in the Dangerous Goods list of The 18th Revised Edition of the UN Model Regulations, the 2013–2014 ICAO TI and the 37–14 amendments to the IMDG Code. It is extremely important for the domestic HMR to mirror the UN Model Regulations, the ICAO TI, and the IMDG Code with respect to the entries in the HMT to ensure consistent naming conventions across modes and international borders.

The packing group assignment reflects a degree of danger associated with a particular material and identifies appropriate packaging. However, assignment of a packing group is not appropriate in all cases (*e.g.* explosives, gases, radioactive material). In such cases the packing group does not indicate a degree of danger and the packaging requirements for those materials are specified in the appropriate section in part 173. The proposed change to eliminate a packing group designation for materials classified as explosives and organic peroxides specifically listed in the HMT provides a level of consistency, without diminishing environmental protection and safety.

Current greenhouse gas emissions would be unaffected under this proposed set of amendments.

Hazard Communication (Marking, Labeling, Placarding, Emergency Response):

PHMSA believes that this proposed set of amendments, which will provide for enhanced hazard communication (hazcom), will result in greater protection of human health and the environment. The proposed changes communicate the nature of various specialized packaging configurations to package handlers and emergency responders. The proposed amendments would ensure that hazard markings are visible, universally recognizable, and that they contain all information needed by emergency responders, thus resulting in fewer incidents with impacts to the environment and safety.

Similar to the above sets of amendments, PHMSA believes that this proposed set of amendments, which will increase standardization and consistency of regulations, will result in greater protection of human health and the environment. Consistency between U.S. and international regulations enhances the safety and environmental protection of international hazardous materials transportation through better understanding of the regulations, an increased level of industry compliance, the smooth flow of hazardous materials from their points of origin to their points of destination, and consistent emergency response in the event of a hazardous materials incident.

Current greenhouse gas emissions would be unaffected under this proposed set of amendments.

Shipper Requirements:

PHMSA believes that this proposed amendment, which will revise, clarify and enhance current regulations, will result in greater protection of human health and the environment. Compliance with the HMR will be facilitated for shippers and transporters of hazardous materials through regulations which are easier to understand and more streamlined. Additionally, the revisions include emphasis being placed in areas requiring more attention.

Specific to this set of amendments, improving the packaging requirements applicable to glass packages of nitric acid reduces the occurrences of fires caused by broken inner containers and enhances human health and environmental protection. PHMSA believes that the additional intermediate packaging required by this particular amendment will add another layer of protection in preventing breakage, leakage and fires. Additionally, this particular amendment creates a more streamlined and efficient HMR through incorporation of a petition for rulemaking, P–1601. A more streamlined and efficient HMR allows both regulators and the regulated community to target limited resources at the most pressing hazmat compliance issues.

Current greenhouse gas emissions would be unaffected under this proposed set of amendments.

Modal Requirements (Air, Vessel, and Highway):

PHMSA believes that this proposed amendment, which will revise, clarify and enhance current regulations, will result in greater protection of human health and the environment. Compliance with the HMR will be facilitated for air, vessel and highway shippers and transporters of hazardous materials through regulations which are easier to understand and more streamlined. Additionally, the revisions include emphasis being placed in areas requiring more attention.

Current greenhouse gas emissions would be unaffected under this proposed set of amendments.

Packaging design and requalification:

PHMSA believes that this proposed amendment, which will revise, clarify and enhance current regulations, will result in greater protection of human health and the environment. Compliance with the HMR will be facilitated for shippers and transporters of hazardous materials through regulations which are easier to understand and more streamlined. Additionally, the revisions include emphasis being placed in areas requiring more attention.

Specific to this set of amendments, decreasing the required frequency for pressure testing and visual inspection of certain cargo tanks in dedicated propane service by extending the requalification period from five years to ten years will ease the burden on regulators and the regulated community. This test, which requires significant equipment down-time and man-hours to perform, has been shown to achieve no additional safety or environmental protection when performed at a five- versus a ten-year interval. Pressure testing requires a significant amount of water usage. Decreasing the testing frequency by half will result in significant volumes of water being conserved. Additionally, this particular amendment creates a more streamlined and efficient HMR through incorporation of a petition for rulemaking, P–1609. A more streamlined and efficient HMR allows both regulators and the regulated community to target limited resources at

the most pressing hazmat compliance issues.

Current greenhouse gas emissions would be unaffected under these amendments.

Agencies Consulted

This NPRM would affect some PHMSA stakeholders, including hazardous materials shippers and carriers by highway, rail, vessel, and aircraft, as well as package manufacturers and testers. PHMSA is seeking comment on the environmental assessment contained in this NPRM. In addition, PHMSA specifically coordinated with the following Federal Agencies and modal partners:

- Department of Justice
- Environmental Protection Agency
- Health and Human Services
- Occupational Safety and Health Administration
- Federal Aviation Administration
- Federal Motor Carrier Safety Administration
- Federal Railroad Administration
- United States Coast Guard

Conclusion

PHMSA proposes to make miscellaneous amendments to the HMR based on comments from the regulated community, NTSB recommendations, and PHMSA's own rulemaking initiatives. The proposed amendments are intended to update, clarify, or provide relief from certain existing regulatory requirements to promote safer transportation practices; eliminate unnecessary regulatory requirements; facilitate international commerce; and make these requirements easier to understand. These proposed clarifications of regulatory requirements, if adopted, will foster a greater level of compliance with the HMR and thus, diminished levels of hazardous materials transportation incidents affecting the health and safety of the environment. Therefore, the net environmental impact of this proposal will be positive.

J. Privacy Act

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement at *http://www.dot.gov/privacy*.

K. International Trade Analysis

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, establishing standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standards have a legitimate domestic objective, such as the protection of safety, and do not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. PHMSA notes the purpose is to ensure the safety of the American public, and has assessed the effects of this rule to ensure that it does not exclude imports that meet this objective. As a result, this proposed rule is not considered as creating an unnecessary obstacle to foreign commerce.

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Incorporation by reference, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Loading and unloading, Segregation and separation.

49 CFR Part 178

Hazardous materials transportation, Incorporation by reference, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 179

Hazardous materials transportation, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, we propose to amend 49 CFR Chapter I as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

■ 1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 101 section 4 (28 U.S.C. 2461 note); Pub. L. 104–121 sections 212–213; Pub. L. 104–134 section 31001; 49 CFR 1.81, 1.96 and 1.97.

■ 2. In § 107.402, revise paragraphs (d)(1)(i), (e), and (f) to read as follows:

§ 107.402 Application for designation as a certification agency.

* * * * *

(d) * * *

(1) * * *

(i) Be a U.S. resident, or for a non-U.S. resident, have a designated U.S. agent representative as specified in § 105.40 of this subchapter;

* * * * *

(e) *Lighter Certification Agency.* Prior to examining and testing lighters (UN1057) for compliance with the requirements of § 173.308 of this chapter a person must submit an application to, and be approved by, the Associate Administrator to act as a lighter certification agency. In addition to paragraph (b) of this section, the application must include the following information:

(1) The name and address of each facility where lighters are examined and tested;

(2) A detailed description of the applicant's qualifications and ability to examine and test lighters and certification that the requirements specified by § 173.308 of this chapter have been met; and

(3) A statement that the agency is independent of and not owned by a lighter manufacturer, distributor, import or export company, or proprietorship.

(f) *Portable tank and MEGC Certification Agencies.* Prior to inspecting portable tanks or multi-element gas containers (MEGCs) for compliance with the requirements of § 180.605(k) of this chapter, performing periodic testing, inspection and repair of portable tanks specified in § 180.352 of this chapter, and approval of MEGCs specified in § 178.74 of this chapter, a person must submit an application to, and be approved by, the Associate Administrator to act as a certification agency. In addition to paragraph (b) of this section, the application must provide the following information:

(1) A name and address of each facility where the portable tank or MEGC is examined and tested;

(2) A detailed description of the applicant's qualifications and ability to examine and test portable tanks or MEGCs and certify that the requirements specified by § 178.273 of this chapter, specifications for UN portable tanks, or § 178.74 of this chapter for the approval of MEGCs have been met; and

(3) A statement indicating that the agency is independent of and not owned by a portable tank or MEGC manufacturer, owner, or distributor.

■ 3. In § 107.807, revise paragraph (b)(3) to read as follows:

§ 107.807 Approval of non-domestic chemical analyses and tests.

* * * * *

(b) * * *

(3) The name of the independent inspection agency to be used to certify the analyses and tests and a statement indicating that this inspection agency is independent of and not owned by a cylinder manufacturer, owner, or distributor; and

* * * * *

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 4. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81 and 1.97; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–134 section 31001.

■ 5. In § 171.7:

■ a. Revise paragraph (k);

■ b. Redesignate paragraphs (n)(13) through (21) as (n)(14) through (22) and add new paragraph (n)(13); and

■ c. In paragraph (dd)(2)(ii), Table 1 to 49 CFR 171.7—Materials Not Incorporated by Reference, entry for ''Compressed Gas Association, Inc., 4221 Walney Road, 5th Floor, Chantilly, Virginia 20151'' and the associated entry for document ''CGA C–1.1, Personnel Training and Certification Guidelines for Cylinder Requalification By the Volumetric Expansion Method, 2004, First Edition'' are removed.

The revisions read as follows:

§ 171.7 Reference material.

* * * * *

(k) *Association of American Railroads,* American Railroads Building, 50 F Street NW., Washington, DC 20001: telephone (877) 999–8824, *https://www.aarpublications.com/.*

(1) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Chapter 1, October 2013; into §§ 179.7, 179.24, 180.503, and 180.517.

(2) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Chapter 2, April 2010; into §§ 179.7 and 180.503.

(3) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Chapter 3, October, 2007; into §§ 179.7 and 180.503.

(4) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Chapter 5, October, 2007; into §§ 179.7, 179.16 and 180.503.

(5) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Chapter 6, July 2012; into §§ 179.7, 179.400–6, and 180.503.

(6) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Appendix A, October 2013; into §§ 173.314, 179.7, 179.15, 179.300–15, 179.300–17, 179.400–20, and 180.503.

(7) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Appendix B, January 2014; into §§ 179.7 and 180.503.

(8) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Appendix C, October 2007; into §§ 179.7, 179.22, 179.220–26, 179.400–25, and 180.503.

(9) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Appendix D, except for Sections 2.0, 4.1, 4.2, 4.3, and 4.4, October 2013; into §§ 179.7, 180.503, and 180.509.

(10) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Appendix E, April 2010; into §§ 173.31, 179.7, 179.20, 179.100–12, 179.100–14, 179.101–1, 179.103–5, 179.200–9, 179–200–13, 179.200–17, 179.220–14, 179.220–18, and 180.503.

(11) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Appendix L, October 2013; into §§ 179.7 and 180.503.

(12) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Appendix M, July 2012; into §§ 179.7, 179.200–7, 179.201–6, 179.220–6, 179.220–7, 179.400–5, 179.400–8, 180.503, and 180.515.

(13) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Appendix R, October 2007; into §§ 179.6, 179.7, and 180.503.

(14) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Appendix T, October 2007; into §§ 179.7 and 180.503.

(15) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Appendix U, October 2013; into §§ 179.7 and 180.503.

(16) AAR Manual of Standards and Recommended Practices, Section C—III, Specifications for Tank Cars, Specification M–1002 (AAR Specifications for Tank Cars), Appendix W, October 2007; into §§ 179.7, 179.100–9, 179.100–10, 179.100–13, 179.100–18, 179.102–1, 179.102–4, 179.102–17, 179.200–10, 179.200–11, 179.200–22, 179.220–10, 179.220–11,

179.300–9, 179.300–10, 179.400–5, 179.400–11, 179.400–12, 179.400–15, 179.400–18, and 180.503.

(17) AAR Manual of Standards and Recommended Practices, Section I, Specially Equipped Freight Car and Intermodal Equipment, 1988, into § 174.55; 174.63.

(18) AAR Specifications for Design, Fabrication and Construction of Freight Cars, Volume 1, 1988, into § 179.16.

(19) AAR Standard 286; AAR Manual of Standards and Recommended Practices, Section C, Car Construction Fundamentals and Details, Standard S–286, Free/Unrestricted Interchange for 286,000 lb Gross Rail Load Cars (Adopted 2002; Revised: 2003, 2005, 2006), into § 179.13.

* * * * *

(n) * * *

(13) CGA Pamphlet G–1.6 Standard for Mobile Acetylene Trailer Systems, 2011, into § 173.301.

(14) CGA Pamphlet G–2.2, Guideline Method for Determining Minimum of 0.2% Water in Anhydrous Ammonia, 1985, Second Edition, Reaffirmed 1997, into § 173.315.

(15) CGA Pamphlet G–4.1, Cleaning Equipment for Oxygen Service, 1985, into § 178.338–15.

(16) CGA Pamphlet P–20, Standard for the Classification of Toxic Gas Mixtures, 1995, into § 173.115.

(17) CGA Pamphlet P–20, Standard for the Classification of Toxic Gas Mixtures, 2003, Third Edition, into § 173.115.

(18) CGA S–1.1, Pressure Relief Device Standards—Part 1—Cylinders for Compressed Gases, (with the exception of paragraph 9.1.1.1), Twelfth Edition, 2005, into § 173.301, 173.304a 178.75.

(19) CGA Pamphlet S–1.2, Safety Relief Device Standards Part 2—Cargo and Portable Tanks for Compressed Gases, 1980, into § 173.315; 173.318; 178.276; 178.277.

(20) CGA S–7, Method for Selecting Pressure Relief Devices for Compressed Gas Mixtures in Cylinders, 2005, into § 173.301.

(21) CGA Technical Bulletin TB–2, Guidelines for Inspection and Repair of MC–330 and MC–331 Cargo Tanks, 1980, into § 180.407; 180.413.

(22) CGA Technical Bulletin TB–25, Design Considerations for Tube Trailers, 2008 Edition, into § 173.301.

* * * * *

■ 6. In § 171.22, paragraph (f)(1) is revised to read as follows:

§ 171.22 Authorization and conditions for the use of international standards and regulations.

* * * * *

(f) Complete information and certification. (1) Except for shipments into the United States from Canada conforming to § 171.12, each person importing a hazardous material into the United States must provide the shipper and the forwarding agent at the place of entry into the United States timely and complete written information as to the requirements of this subchapter applicable to the particular shipment.

* * * * *

■ 7. In § 171.23, paragraphs (b)(10)(iv)(A) and (B) are revised to read follows:

§ 171.23 Requirements for specific materials and packagings transported under the ICAO Technical Instructions, IMDG Code, Transport Canada TDG Regulations, or the IAEA Regulations.

* * * * *

(b) * * *

(10) * * *

(iv) * * *

(A) For a package transported in accordance with the IMDG Code in a closed transport vehicle or freight container, a label or placard conforming to the IMDG Code specifications for a ''Class 2.3'' or ''Class 6.1'' label or placard may be substituted for the POISON GAS or POISON INHALATION HAZARD label or placard, as appropriate. The transport vehicle or freight container must be marked with the identification numbers for the hazardous material in the manner specified in § 172.313(c) of this subchapter and placarded as required by subpart F of part 172 of this subchapter.

(B) For a package transported in accordance with the Transport Canada TDG Regulations in a closed transport vehicle or freight container, a label or placard conforming to the TDG Regulations specifications for a ''Class 2.3'' or ''Class 6.1'' label or placard may be substituted for the POISON GAS or POISON INHALATION HAZARD label or placard, as appropriate. The transport vehicle or freight container must be marked with the identification numbers for the hazardous material in the manner specified in § 172.313(c) of this subchapter and placarded as required by subpart F of part 172 of this subchapter. While in transportation in the United States, the transport vehicle or freight container may also be placarded in accordance with the appropriate TDG Regulations in addition to being placarded with the POISON GAS or POISON INHALATION HAZARD placards.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

■ 8. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 44701; 49 CFR 1.81 and 1.97.

■ 9. In § 172.101, the Hazardous Materials Table is amended by revising entries under ''[REVISE]'' in the appropriate alphabetical sequence to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

§ 172.101—HAZARDOUS MATERIALS TABLE

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification Nos.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations (see §§ 173.27 and 175.75)		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
		*	*		*	*	*		*	*			
	[REVISE].												
		*	*		*	*	*		*	*			
I	Air bag inflators, *or* Air bag modules, *or* Seat-belt pretensioners.	1.4G	UN0503		1.4G	161, A200	None	62	None	Forbidden	75 kg	02	25.
		*	*		*	*	*		*	*			
D	Ammonium nitrate-fuel oil mixture *containing only prilled ammonium nitrate and fuel oil.*	1.5D	NA0331		1.5D		None	62	None	Forbidden	Forbidden	03	25, 19E.
		*	*		*	*	*		*	*			
	Ammonium nitrate, *with more than 0.2 percent combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance.*	1.1D	UN0222		1.1D		None	62	None	Forbidden	Forbidden	04	25, 19E.
		*	*		*	*	*		*	*			
	Ammonium perchlorate	1.1D	UN0402		1.1D	107	None	62	None	Forbidden	Forbidden	04	25, 19E.
		*	*		*	*	*		*	*			
	Ammonium picrate, *dry or wetted with less than 10 percent water, by mass.*	1.1D	UN0004		1.1D		None	62	None	Forbidden	Forbidden	04	25, 5E, 19E.
		*	*		*	*	*		*	*			
	Ammunition, illuminating *with or without burster, expelling charge or propelling charge.*	1.2G	UN0171		1.2G			62	62	Forbidden	Forbidden	03	25.
	Ammunition, illuminating *with or without burster, expelling charge or propelling charge.*	1.3G	UN0254		1.3G			62	62	Forbidden	Forbidden	03	25.
	Ammunition, illuminating *with or without burster, expelling charge or propelling charge.*	1.4G	UN0297		1.4G			62	62	Forbidden	75 kg	02	25.
	Ammunition, incendiary *liquid or gel, with burster, expelling charge or propelling charge.*	1.3J	UN0247		1.3J			62	None	Forbidden	Forbidden	05	25, 23E.

	*	*		*	*	*		*	*					
	Ammunition, incendiary, white phosphorus, *with burster, expelling charge or propelling charge.*	1.2H	UN0243		1.2H			62	62	Forbidden	Forbidden	05		25, 14E, 15E, 17E.
	Ammunition, incendiary, white phosphorus, *with burster, expelling charge or propelling charge.*	1.3H	UN0244		1.3H			62	62	Forbidden	Forbidden	05		25, 14E, 15E, 17E.
	Ammunition, incendiary *with or without burster, expelling charge, or propelling charge.*	1.2G	UN0009		1.2G			62	62	Forbidden	Forbidden	03		25.
	Ammunition, incendiary *with or without burster, expelling charge, or propelling charge.*	1.3G	UN0010		1.3G			62	62	Forbidden	Forbidden	03		25.
	Ammunition, incendiary *with or without burster, expelling charge or propelling charge.*	1.4G	UN0300		1.4G			62	62	Forbidden	75 kg	02		25.
	Ammunition, practice	1.4G	UN0362		1.4G			62	62	Forbidden	75 kg	02		25.
	Ammunition, practice	1.3G	UN0488		1.3G			62	62	Forbidden	Forbidden	03		25.
	Ammunition, proof	1.4G	UN0363		1.4G			62	62	Forbidden	75 kg	02		25.
	*	*		*	*	*		*	*					
	Ammunition smoke, white phosphorus *with burster, expelling charge, or propelling charge.*	1.2H	UN0245		1.2H			62	62	Forbidden	Forbidden	05		25, 14E, 15E, 17E.
	Ammunition, smoke, white phosphorus *with burster, expelling charge, or propelling charge.*	1.3H	UN0246		1.3H			62	62	Forbidden	Forbidden	05		25, 14E, 15E, 17E.
	Ammunition, smoke *with or without burster, expelling charge or propelling charge.*	1.2G	UN0015		1.2G			62	62	Forbidden	Forbidden	03		25, 17E.
	Ammunition, smoke *with or without burster, expelling charge or propelling charge.*	1.3G	UN0016		1.3G			62	62	Forbidden	Forbidden	03		25, 17E.
	Ammunition, smoke *with or without burster, expelling charge or propelling charge.*	1.4G	UN0303		1.4G			62	62	Forbidden	75 kg	02		25, 14E, 15E, 17E.
	*	*		*	*	*		*	*					
	Ammunition, tear-producing *with burster, expelling charge or propelling charge.*	1.2G	UN0018		1.2G, 8, 6.1			62	62	Forbidden	Forbidden	03		25, 17E.
	Ammunition, tear-producing *with burster, expelling charge or propelling charge.*	1.3G	UN0019		1.3G, 8, 6.1			62	62	Forbidden	Forbidden	03		25, 17E.
	Ammunition, tear-producing *with burster, expelling charge or propelling charge.*	1.4G	UN0301		1.4G, 8, 6.1			62	62	Forbidden	75 kg	02		25, 14E, 15E, 17E.
	*	*		*	*	*		*	*					
G	Ammunition, toxic *with burster, expelling charge, or propelling charge.*	1.2K	UN0020		1.2K, 6.1			62	None	Forbidden	Forbidden	05		25, 14E, 15E, 17E.

§ 172.101—HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification Nos.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations (see §§ 173.27 and 175.75)		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
G	Ammunition, toxic *with burster, expelling charge, or propelling charge.*	1.3K	UN0021		1.3K, 6.1			62	None	Forbidden	Forbidden	05	25, 14E, 15E, 17E.
		*	*		*	*	*		*	*			
	Articles, explosive, extremely insensitive *or* Articles, EEI.	1.6N	UN0486		1.6N		None	62	None	Forbidden	Forbidden	03	25.
G	Articles, explosive, n.o.s	1.4S	UN0349		1.4S	101	None	62	None	25 kg	100 kg	01	25.
G	Articles, explosive, n.o.s	1.4B	UN0350		1.4B	101	None	62	None	Forbidden	Forbidden	05	25.
G	Articles, explosive, n.o.s	1.4C	UN0351		1.4C	101	None	62	None	Forbidden	75 kg	02	25.
G	Articles, explosive, n.o.s	1.4D	UN0352		1.4D	101	None	62	None	Forbidden	75 kg	02	25.
G	Articles, explosive, n.o.s	1.4G	UN0353		1.4G	101	None	62	None	Forbidden	75 kg	02	25.
G	Articles, explosive, n.o.s	1.1L	UN0354		1.1L	101	None	62	None	Forbidden	Forbidden	02	25, 14E, 15E.
G	Articles, explosive, n.o.s	1.2L	UN0355		1.2L	101	None	62	None	Forbidden	Forbidden	05	25, 14E, 15E.
G	Articles, explosive, n.o.s	1.3L	UN0356		1.3L	101	None	62	None	Forbidden	Forbidden	05	25, 14E, 15E.
G	Articles, explosive, n.o.s	1.1C	UN0462		1.1C	101	None	62	None	Forbidden	Forbidden	04	25.
G	Articles, explosive, n.o.s	1.1D	UN0463		1.1D	101	None	62	None	Forbidden	Forbidden	04	25.
G	Articles, explosive, n.o.s	1.1E	UN0464		1.1E	101	None	62	None	Forbidden	Forbidden	04	25.
G	Articles, explosive, n.o.s	1.1F	UN0465		1.1F	101	None	62	None	Forbidden	Forbidden	05	25.
G	Articles, explosive, n.o.s	1.2C	UN0466		1.2C	101	None	62	None	Forbidden	Forbidden	04	25.
G	Articles, explosive, n.o.s	1.2D	UN0467		1.2D	101	None	62	None	Forbidden	Forbidden	04	25.
G	Articles, explosive, n.o.s	1.2E	UN0468		1.2E	101	None	62	None	Forbidden	Forbidden	04	25.
G	Articles, explosive, n.o.s	1.2F	UN0469		1.2F	101	None	62	None	Forbidden	Forbidden	05	25.
G	Articles, explosive, n.o.s	1.3C	UN0470		1.3C	101	None	62	None	Forbidden	Forbidden	04	25.
G	Articles, explosive, n.o.s	1.4E	UN0471		1.4E	101	None	62	None	Forbidden	75 kg	03	25.
G	Articles, explosive, n.o.s	1.4F	UN0472		1.4F	101	None	62	None	Forbidden	Forbidden	05	25.
		*	*		*	*	*		*	*			
	Articles, pyrophoric	1.2L	UN0380		1.2L		None	62	None	Forbidden	Forbidden	05	25, 14E, 15E, 17E.
	Articles, pyrotechnic *for technical purposes.*	1.1G	UN0428		1.1G		None	62	None	Forbidden	Forbidden	03	25.
	Articles, pyrotechnic *for technical purposes.*	1.2G	UN0429		1.2G		None	62	None	Forbidden	Forbidden	03	25.
	Articles, pyrotechnic *for technical purposes.*	1.3G	UN0430		1.3G		None	62	None	Forbidden	Forbidden	03	25.
	Articles, pyrotechnic *for technical purposes.*	1.4G	UN0431		1.4G		None	62	None	Forbidden	75 kg	02	25.
	Articles, pyrotechnic *for technical purposes.*	1.4S	UN0432		1.4S		None	62	None	25 kg	100 kg	01	25.
D	Asbestos	9	NA2212	III	9	156, IB8, IP2, IP4.	155	216	216	200 kg	200 kg	A	34, 40.
		*	*		*	*	*		*	*			
	Barium azide, *dry or wetted with less than 50 percent water, by mass.*	1.1A	UN0224		1.1A, 6.1	111, 117	None	62	None	Forbidden	Forbidden	05	25.

	*	*		*	*	*		*	*				
	Black powder, compressed *or* Gunpowder, compressed *or* Black powder, in pellets *or* Gunpowder, in pellets.	1.1D	UN0028		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	Black powder *or* Gunpowder, *granular or as a meal*.	1.1D	UN0027		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	*	*		*	*	*		*	*				
I	Blue asbestos (*Crocidolite*) *or* Brown asbestos (*amosite, mysorite*).	9	UN2212	II	9	156, IB8, IP2, IP4, T3, TP33.	155	216	216	200 kg	200 kg	A	34, 40.
	Bombs, photo-flash	1.1F	UN0037		1.1F			62	None	Forbidden	Forbidden	05	25.
	Bombs, photo-flash	1.1D	UN0038		1.1D			62	62	Forbidden	Forbidden	04	25.
	Bombs, photo-flash	1.2G	UN0039		1.2G			62	62	Forbidden	Forbidden	03	25.
	Bombs, photo-flash	1.3G	UN0299		1.3G			62	62	Forbidden	Forbidden	03	25.
	*	*		*	*	*		*	*				
	Bombs, *with bursting charge*.	1.1F	UN0033		1.1F			62	None	Forbidden	Forbidden	05	25.
	Bombs, *with bursting charge*.	1.1D	UN0034		1.1D			62	62	Forbidden	Forbidden	04	25.
	Bombs, *with bursting charge*.	1.2D	UN0035		1.2D			62	62	Forbidden	Forbidden	04	25.
	Bombs, *with bursting charge*.	1.2F	UN0291		1.2F			62	None	Forbidden	Forbidden	05	25.
	Bombs with flammable liquid, *with bursting charge*.	1.1J	UN0399		1.1J			62	None	Forbidden	Forbidden	05	25, 23E.
	Bombs with flammable liquid, *with bursting charge*.	1.2J	UN0400		1.2J			62	None	Forbidden	Forbidden	05	25, 23E.
	Boosters with detonator	1.1B	UN0225		1.1B		None	62	None	Forbidden	Forbidden	05	25.
	Boosters with detonator	1.2B	UN0268		1.2B		None	62	None	Forbidden	Forbidden	05	25.
	Boosters, *without detonator*	1.1D	UN0042		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	Boosters, *without detonator*	1.2D	UN0283		1.2D		None	62	None	Forbidden	Forbidden	04	25.
	*	*		*	*	*		*	*				
	Bursters, *explosive*	1.1D	UN0043		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	*	*		*	*	*		*	*				
	Calcium nitrate	5.1	UN1454	III	5.1	34, B120, IB8, IP3, T1, TP33.	152	213	240	25 kg	100 kg	A.	
	*	*		*	*	*		*	*				
	Cartridges, flash	1.1G	UN0049		1.1G		None	62	None	Forbidden	Forbidden	03	25.
	Cartridges, flash	1.3G	UN0050		1.3G		None	62	None	Forbidden	75 kg	03	25.
	Cartridges for weapons, blank.	1.1C	UN0326		1.1C		None	62	None	Forbidden	Forbidden	04	25.
	Cartridges for weapons, blank.	1.2C	UN0413		1.2C		None	62	None	Forbidden	Forbidden	04	25.
	Cartridges for weapons, blank *or* Cartridges, small arms, blank *or* Cartridges for tools, blank.	1.4S	UN0014		None		63	62	None	25 kg	100 kg	01	25.
	Cartridges for weapons, blank *or* Cartridges, small arms, blank.	1.3C	UN0327		1.3C		None	62	None	Forbidden	Forbidden	04	25.
	Cartridges for weapons, blank *or* Cartridges, small arms, blank.	1.4C	UN0338		1.4C		None	62	None	Forbidden	75 kg	02	25.
	Cartridges for weapons, inert projectile.	1.2C	UN0328		1.2C		None	62	62	Forbidden	Forbidden	04	25.

§ 172.101—HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification Nos.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations (see §§ 173.27 and 175.75)		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	Cartridges for weapons, inert projectile *or* Cartridges, small arms.	1.4S	UN0012		None		63	62	None	25 kg	100 kg	01	25.
	Cartridges for weapons, inert projectile *or* Cartridges, small arms.	1.4C	UN0339		1.4C		None	62	None	Forbidden	75 kg	02	25.
	Cartridges for weapons, inert projectile *or* Cartridges, small arms.	1.3C	UN0417		1.3C		None	62	None	Forbidden	Forbidden	04	25.
	Cartridges for weapons, *with bursting charge.*	1.1F	UN0005		1.1F		None	62	None	Forbidden	Forbidden	05	25.
	Cartridges for weapons, *with bursting charge.*	1.1E	UN0006		1.1E		None	62	62	Forbidden	Forbidden	04	25.
	Cartridges for weapons, *with bursting charge.*	1.2F	UN0007		1.2F		None	62	None	Forbidden	Forbidden	05	25.
	Cartridges for weapons, *with bursting charge.*	1.2E	UN0321		1.2E		None	62	62	Forbidden	Forbidden	04	25.
	Cartridges for weapons, *with bursting charge.*	1.4F	UN0348		1.4F		None	62	None	Forbidden	Forbidden	05	25.
	Cartridges for weapons, *with bursting charge.*	1.4E	UN0412		1.4E		None	62	62	Forbidden	75 kg	03	25.
	Cartridges, oil well	1.3C	UN0277		1.3C		None	62	62	Forbidden	Forbidden	04	25.
	Cartridges, oil well	1.4C	UN0278		1.4C		None	62	62	Forbidden	75 kg	02	25.
	Cartridges, power device	1.3C	UN0275		1.3C		None	62	62	Forbidden	75 kg	04	25.
	Cartridges, power device	1.4C	UN0276		1.4C	110	None	62	62	Forbidden	75 kg	02	25.
	Cartridges, power device	1.4S	UN0323		1.4S	110, 347	63	62	62	25 kg	100 kg	01	25.
	Cartridges, power device	1.2C	UN0381		1.2C		None	62	62	Forbidden	Forbidden	04	25.
		*	*		*	*	*		*	*			
	Cartridges, signal	1.3G	UN0054		1.3G		None	62	None	Forbidden	75 kg	03	25.
	Cartridges, signal	1.4G	UN0312		1.4G		None	62	None	Forbidden	75 kg	02	25.
	Cartridges, signal	1.4S	UN0405		1.4S		None	62	None	25 kg	100 kg	01	25.
		*	*		*	*	*		*	*			
	Cases, cartridge, empty with primer.	1.4S	UN0055		1.4S	50	63	62	None	25 kg	100 kg	01	25.
	Cases, cartridges, empty with primer.	1.4C	UN0379		1.4C	50	None	62	None	Forbidden	75 kg	02	25.
	Cases, combustible, empty, without primer.	1.4C	UN0446		1.4C		None	62	None	Forbidden	75 kg	02	25.
	Cases, combustible, empty, without primer.	1.3C	UN0447		1.3C		None	62	None	Forbidden	Forbidden	04	25.
		*	*		*	*	*		*	*			
	Charges, bursting, plastics bonded.	1.1D	UN0457		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	Charges, bursting, plastics bonded.	1.2D	UN0458		1.2D		None	62	None	Forbidden	Forbidden	04	25.
	Charges, bursting, plastics bonded.	1.4D	UN0459		1.4D		None	62	None	Forbidden	75 kg	02	25.
	Charges, bursting, plastics bonded.	1.4S	UN0460		1.4S	347	None	62	None	25 kg	100 kg	01	25.
	Charges, demolition	1.1D	UN0048		1.1D		None	62	62	Forbidden	Forbidden	04	25.

	Charges, depth	1.1D	UN0056		1.1D		None	62	62	Forbidden	Forbidden	04	25.
		*	*		*	*	*		*	*				
	Charges, explosive, commercial *without detonator*.	1.1D	UN0442		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	Charges, explosive, commercial *without detonator*.	1.2D	UN0443		1.2D		None	62	None	Forbidden	Forbidden	04	25.
	Charges, explosive, commercial *without detonator*.	1.4D	UN0444		1.4D		None	62	None	Forbidden	75 kg	02	25.
	Charges, explosive, commercial *without detonator*.	1.4S	UN0445		1.4S	347	None	62	None	25 kg	100 kg	01	25.
	Charges, propelling	1.1C	UN0271		1.1C		None	62	None	Forbidden	Forbidden	04	25.
	Charges, propelling	1.3C	UN0272		1.3C		None	62	None	Forbidden	Forbidden	04	25.
	Charges, propelling	1.2C	UN0415		1.2C		None	62	None	Forbidden	Forbidden	04	25.
	Charges, propelling	1.4C	UN0491		1.4C		None	62	None	Forbidden	75 kg	02	25.
	Charges, propelling, for cannon.	1.3C	UN0242		1.3C		None	62	None	Forbidden	Forbidden	04	25.
	Charges, propelling, for cannon.	1.1C	UN0279		1.1C		None	62	None	Forbidden	Forbidden	04	25.
	Charges, propelling, for cannon.	1.2C	UN0414		1.2C		None	62	None	Forbidden	Forbidden	04	25.
	Charges, shaped, flexible, linear.	1.4D	UN0237		1.4D		None	62	None	Forbidden	75 kg	02	25.
	Charges, shaped, flexible, linear.	1.1D	UN0288		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	Charges, shaped, *without detonator*.	1.1D	UN0059		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	Charges, shaped, *without detonator*.	1.2D	UN0439		1.2D		None	62	None	Forbidden	Forbidden	04	25.
	Charges, shaped, *without detonator*.	1.4D	UN0440		1.4D		None	62	None	Forbidden	75 kg	02	25.
	Charges, shaped, *without detonator*.	1.4S	UN0441		1.4S	347	None	62	None	25 kg	100 kg	01	25.
	Charges, supplementary explosive.	1.1D	UN0060		1.1D		None	62	None	Forbidden	Forbidden	04	25.
		*	*		*	*	*		*	*				
G	Components, explosive train, n.o.s.	1.2B	UN0382		1.2B	101	None	62	None	Forbidden	Forbidden	05	25.
G	Components, explosive train, n.o.s.	1.4B	UN0383		1.4B	101	None	62	None	Forbidden	75 kg	05	25.
G	Components, explosive train, n.o.s.	1.4S	UN0384		1.4S	101	None	62	None	25 kg	100 kg	01	25.
G	Components, explosive train, n.o.s.	1.1B	UN0461		1.1B	101	None	62	None	Forbidden	Forbidden	05	25.
		*	*		*	*	*		*	*				
G	Contrivances, water-activated, *with burster, expelling charge or propelling charge*.	1.2L	UN0248		1.2L		None	62	None	Forbidden	Forbidden	05	25, 14E, 15E, 17E.
G	Contrivances, water-activated, *with burster, expelling charge or propelling charge*.	1.3L	UN0249		1.3L		None	62	None	Forbidden	Forbidden	05	25, 14E, 15E, 17E.
		*	*		*	*	*		*	*				
	Cord, detonating, *flexible*	1.1D	UN0065		1.1D	102	63(a)	62	None	Forbidden	Forbidden	04	25.
	Cord, detonating, *flexible*	1.4D	UN0289		1.4D		None	62	None	Forbidden	75 kg	02	25.
	Cord detonating *or* Fuse detonating *metal clad*.	1.2D	UN0102		1.2D		None	62	None	Forbidden	Forbidden	04	25.
	Cord, detonating *or* Fuse, detonating *metal clad*.	1.1D	UN0290		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	Cord, detonating, mild effect *or* Fuse, detonating, mild effect *metal clad*.	1.4D	UN0104		1.4D		None	62	None	Forbidden	75 kg	02	25.

§ 172.101—HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification Nos.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations (see §§ 173.27 and 175.75)		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	Cord, igniter	1.4G	UN0066		1.4G		None	62	None	Forbidden	75 kg	02	25.
	*	*	*	*	*	*	*	*	*	*			
G	Corrosive liquids, flammable, n.o.s.	8	UN2920	I	8, 3	A6, B10, T14, TP2, TP27.	None	201	243	0.5 L	2.5 L	C	25, 40.
				II	8,3	B2, IB2, T11, TP2, TP27.	154	202	243	1 L	30 L	C	25, 40.
	*	*	*	*	*	*	*	*	*	*			
	Cutters, cable, explosive	1.4S	UN0070		1.4S		None	62	62	25 kg	100 kg	01	25.
	*	*	*	*	*	*	*	*	*	*			
	Cyclotetramethylenetetranitramine, desensitized *or* Octogen, desensitized *or* HMX, desensitized.	1.1D	UN0484		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	Cyclotetramethylenetetranitramine, wetted *or* HMX, wetted *or* Octogen, wetted *with not less than 15 percent water, by mass*.	1.1D	UN0226		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	*	*	*	*	*	*	*	*	*	*			
	Cyclotrimethylenetrinitramine, desensitized *or* Cyclonite, desensitized *or* Hexogen, desensitized *or* RDX, desensitized.	1.1D	UN0483		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	Cyclotrimethylenetrinitramine, wetted *or* Cyclonite, wetted *or* Hexogen, wetted *or* RDX, wetted *with not less than 15 percent water by mass*.	1.1D	UN0072		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	*	*	*	*	*	*	*	*	*	*			
	Deflagrating metal salts of aromatic nitroderivatives, n.o.s.	1.3C	UN0132		1.3C		None	62	None	Forbidden	Forbidden	04	25, 5E.
	*	*	*	*	*	*	*	*	*	*			
	Detonator assemblies, non-electric *for blasting*.	1.1B	UN0360		1.1B		None	62	None	Forbidden	Forbidden	05	25.
	Detonator assemblies, non-electric, *for blasting*.	1.4B	UN0361		1.4B	103	63(f), 63(g)	62	None	Forbidden	75 kg	05	25.
	Detonator assemblies, non-electric, *for blasting*.	1.4S	UN0500		1.4S	347	63(f), 63(g)	62	None	25 kg	100 kg	01	25.

Detonators, electric, *for blasting.*	1.1B	UN0030		1.1B		63(f), 63(g)	62	None	Forbidden	Forbidden	05	25.
Detonators, electric, *for blasting.*	1.4B	UN0255		1.4B	103	63(f), 63(g)	62	None	Forbidden	75 kg	05	25.
Detonators, electric *for blasting.*	1.4S	UN0456		1.4S	347	63(f), 63(g)	62	None	25 kg	100 kg	01	25.
Detonators for ammunition	1.1B	UN0073		1.1B		None	62	None	Forbidden	Forbidden	05	25.
Detonators for ammunition	1.2B	UN0364		1.2B		None	62	None	Forbidden	Forbidden	05	25.
Detonators for ammunition	1.4B	UN0365		1.4B	103	None	62	None	Forbidden	75 kg	05	25.
Detonators for ammunition	1.4S	UN0366		1.4S	347	None	62	None	25 kg	100 kg	01	25.
Detonators, non-electric, *for blasting.*	1.1B	UN0029		1.1B		None	62	None	Forbidden	Forbidden	05	25.
Detonators, non-electric, *for blasting.*	1.4B	UN0267		1.4B	103	63(f), 63(g)	62	None	Forbidden	75 kg	05	25.
Detonators, non-electric, *for blasting.*	1.4S	UN0455		1.4S	347	63(f), 63(g)	62	None	25 kg	100 kg	01	25.
*	*	*	*	*	*	*	*	*	*	*	*	*
Diazodinitrophenol, wetted *with not less than 40 percent water or mixture of alcohol and water, by mass.*	1.1A	UN0074		1.1A	111, 117	None	62	None	Forbidden	Forbidden	05	25.
*	*	*	*	*	*	*	*	*	*	*	*	*
Diethyleneglycol dinitrate, desensitized *with not less than 25 percent non-volatile water-insoluble phlegmatizer, by mass.*	1.1D	UN0075		1.1D		None	62	None	Forbidden	Forbidden	04	25, 21E.
*	*	*	*	*	*	*	*	*	*	*	*	*
Dinitroglycoluril *or* Dingu	1.1D	UN0489		1.1D		None	62	None	Forbidden	Forbidden	04	25.
*	*	*	*	*	*	*	*	*	*	*	*	*
Dinitrophenol, *dry or wetted with less than 15 percent water, by mass.*	1.1D	UN0076		1.1D, 6.1		None	62	None	Forbidden	Forbidden	04	25, 5E.
*	*	*	*	*	*	*	*	*	*	*	*	*
Dinitrophenolates *alkali metals, dry or wetted with less than 15 percent water, by mass.*	1.3C	UN0077		1.3C, 6.1		None	62	None	Forbidden	Forbidden	04	25, 5E.
*	*	*	*	*	*	*	*	*	*	*	*	*
Dinitroresorcinol, *dry or wetted with less than 15 percent water, by mass.*	1.1D	UN0078		1.1D		None	62	None	Forbidden	Forbidden	04	25, 5E.
*	*	*	*	*	*	*	*	*	*	*	*	*
Dinitrosobenzene	1.3C	UN0406		1.3C		None	62	None	Forbidden	Forbidden	04	25.
*	*	*	*	*	*	*	*	*	*	*	*	*
Dipicryl sulfide, *dry or wetted with less than 10 percent water, by mass.*	1.1D	UN0401		1.1D		None	62	None	Forbidden	Forbidden	04	25.
*	*	*	*	*	*	*	*	*	*	*	*	*
Explosive, blasting, type A	1.1D	UN0081		1.1D		None	62	None	Forbidden	Forbidden	04	25, 19E, 21E.
Explosive, blasting, type B	1.1D	UN0082		1.1D		None	62	None	Forbidden	Forbidden	04	25, 19E.
Explosive, blasting, type B *or* Agent blasting, Type B.	1.5D	UN0331		1.5D	105, 106	None	62	None	Forbidden	Forbidden	03	25, 19E.
Explosive, blasting, type C	1.1D	UN0083		1.1D	123	None	62	None	Forbidden	Forbidden	04	25, 22E.
Explosive, blasting, type D	1.1D	UN0084		1.1D		None	62	None	Forbidden	Forbidden	04	25.

§ 172.101—HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification Nos.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations (see §§ 173.27 and 175.75)		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	Explosive, blasting, type E	1.1D	UN0241		1.1D		None	62	None	Forbidden	Forbidden	04	25, 19E.
	Explosive, blasting, type E *or* Agent blasting, Type E.	1.5D	UN0332		1.5D	105, 106	None	62	None	Forbidden	Forbidden	03	25, 19E.
	*	*	*	*	*	*	*		*	*			
	Fire extinguishers *containing compressed or liquefied gas.*	2.2	UN1044		2.2	110	309	309	None	75 kg	150 kg	A.	
	*	*	*	*	*	*	*		*	*			
	Fireworks	1.1G	UN0333		1.1G	108	None	62	None	Forbidden	Forbidden	03	25.
	Fireworks	1.2G	UN0334		1.2G	108	None	62	None	Forbidden	Forbidden	03	25.
	Fireworks	1.3G	UN0335		1.3G	108	None	62	None	Forbidden	Forbidden	03	25.
	Fireworks	1.4G	UN0336		1.4G	108	None	62	None	Forbidden	75 kg	02	25.
	Fireworks	1.4S	UN0337		1.4S	108	None	62	None	25 kg	100 kg	01	25.
	*	*	*	*	*	*	*		*	*			
	Flares, aerial	1.3G	UN0093		1.3G		None	62	None	Forbidden	75 kg	03	25.
	Flares, aerial	1.4G	UN0403		1.4G		None	62	None	Forbidden	75 kg	02	25.
	Flares, aerial	1.4S	UN0404		1.4S		None	62	None	25 kg	100 kg	01	25.
	Flares, aerial	1.1G	UN0420		1.1G		None	62	None	Forbidden	Forbidden	03	25.
	Flares, aerial	1.2G	UN0421		1.2G		None	62	None	Forbidden	Forbidden	03	25.
	*	*	*	*	*	*	*		*	*			
	Flares, surface	1.3G	UN0092		1.3G		None	62	None	Forbidden	75 kg	03	25.
	Flares, surface	1.1G	UN0418		1.1G		None	62	None	Forbidden	Forbidden	03	25.
	Flares, surface	1.2G	UN0419		1.2G		None	62	None	Forbidden	Forbidden	03	25.
	*	*	*	*	*	*	*		*	*			
	Flash powder	1.1G	UN0094		1.1G		None	62	None	Forbidden	Forbidden	03	25.
	Flash powder	1.3G	UN0305		1.3G		None	62	None	Forbidden	Forbidden	03	25.
	*	*	*	*	*	*	*		*	*			
	Fracturing devices, explosive, *without detonators for oil wells.*	1.1D	UN0099		1.1D		None	62	62	Forbidden	Forbidden	04	25.
	*	*	*	*	*	*	*		*	*			
	Fuse, igniter *tubular metal clad.*	1.4G	UN0103		1.4G		None	62	None	Forbidden	75 kg	02	25.
	Fuse, non-detonating *instantaneous or quickmatch.*	1.3G	UN0101		1.3G		None	62	None	Forbidden	Forbidden	03	25.
	Fuse, safety	1.4S	UN0105		1.4S		None	62	None	25 kg	100 kg	01	25.
	*	*	*	*	*	*	*		*	*			
	Fuzes, detonating	1.1B	UN0106		1.1B		None	62	None	Forbidden	Forbidden	05	25.
	Fuzes, detonating	1.2B	UN0107		1.2B		None	62	None	Forbidden	Forbidden	05	25.
	Fuzes, detonating	1.4B	UN0257		1.4B	116	None	62	None	Forbidden	75 kg	05	25.
	Fuzes, detonating	1.4S	UN0367		1.4S	116	None	62	None	25 kg	100 kg	01	25.
	Fuzes, detonating, *with protective features.*	1.1D	UN0408		1.1D		None	62	None	Forbidden	Forbidden	04	25.

Fuzes, detonating, *with protective features*.	1.2D	UN0409		1.2D		None	62	None	Forbidden	Forbidden	04	25.
Fuzes, detonating, *with protective features*.	1.4D	UN0410		1.4D	116	None	62	None	Forbidden	75 kg	02	25.
Fuzes, igniting	1.3G	UN0316		1.3G		None	62	None	Forbidden	Forbidden	03	25.
Fuzes, igniting	1.4G	UN0317		1.4G		None	62	None	Forbidden	75 kg	02	25.
Fuzes, igniting	1.4S	UN0368		1.4S		None	62	None	25 kg	100 kg	01	25.
	*	*		*	*	*		*	*			
Grenades, *hand or rifle, with bursting charge*.	1.1D	UN0284		1.1D			62	None	Forbidden	Forbidden	04	25.
Grenades, *hand or rifle, with bursting charge*.	1.2D	UN0285		1.2D			62	None	Forbidden	Forbidden	04	25.
Grenades, *hand or rifle, with bursting charge*.	1.1F	UN0292		1.1F			62	None	Forbidden	Forbidden	05	25.
Grenades, *hand or rifle, with bursting charge*.	1.2F	UN0293		1.2F			62	None	Forbidden	Forbidden	05	25.
	*	*		*	*	*		*	*			
Grenades, practice, *hand or rifle*.	1.4S	UN0110		1.4S			62	None	25 kg	100 kg	01	25.
Grenades, practice, *hand or rifle*.	1.3G	UN0318		1.3G			62	None	Forbidden	Forbidden	03	25.
Grenades, practice, *hand or rifle*.	1.2G	UN0372		1.2G			62	None	Forbidden	Forbidden	03	25.
Grenades practice, *hand or rifle*.	1.4G	UN0452		1.4G			62	None	Forbidden	75 kg	02	25.
	*	*		*	*	*		*	*			
Guanyl nitrosaminoguanylidene hydrazine, wetted *with not less than 30 percent water, by mass*.	1.1A	UN0113		1.1A	111, 117	None	62	None	Forbidden	Forbidden	05	25.
	*	*		*	*	*		*	*			
Guanyl nitrosaminoguanyltetrazene, wetted *or* Tetrazene, wetted *with not less than 30 percent water or mixture of alcohol and water, by mass*.	1.1A	UN0114		1.1A	111, 117	None	62	None	Forbidden	Forbidden	05	25.
	*	*		*	*	*		*	*			
Hexanitrodiphenylamine *or* Dipicrylamine *or* Hexyl.	1.1D	UN0079		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	*	*		*	*	*		*	*			
Hexanitrostilbene	1.1D	UN0392		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	*	*		*	*	*		*	*			
Hexolite, *or* Hexotol *dry or wetted with less than 15 percent water, by mass*.	1.1D	UN0118		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	*	*		*	*	*		*	*			
Hexotonal	1.1D	UN0393		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	*	*		*	*	*		*	*			
Igniters	1.1G	UN0121		1.1G		None	62	None	Forbidden	Forbidden	03	25.
Igniters	1.2G	UN0314		1.2G		None	62	None	Forbidden	Forbidden	03	25.
Igniters	1.3G	UN0315		1.3G		None	62	None	Forbidden	Forbidden	03	25.
Igniters	1.4G	UN0325		1.4G		None	62	None	Forbidden	75 kg	02	25.
Igniters	1.4S	UN0454		1.4S		None	62	None	25 kg	100 kg	01	25.

§ 172.101—HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification Nos.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations (see §§ 173.27 and 175.75)		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
		*	*		*	*	*		*	*			
D	Jet perforating guns, charged *oil well, with detonator.*	1.1D	NA0124		1.1D	55, 56	None	62	None	Forbidden	Forbidden	04	25.
D	Jet perforating guns, charged *oil well, with detonator.*	1.4D	NA0494		1.4D	55, 56	None	62	None	Forbidden	Forbidden	02	25.
	Jet perforating guns, charged, *oil well, without detonator.*	1.4D	UN0494		1.4D	55, 114	None	62	None	Forbidden	300 kg	02	25.
	Jet perforating guns, charged *oil well, without detonator.*	1.1D	UN0124		1.1D	55	None	62	None	Forbidden	Forbidden	04	25.
		*	*		*	*	*		*	*			
	Lead azide, wetted *with not less than 20 percent water or mixture of alcohol and water, by mass.*	1.1A	UN0129		1.1A	111, 117	None	62	None	Forbidden	Forbidden	05	25.
		*	*		*	*	*		*	*			
	Lead styphnate, wetted *or* Lead trinitroresorcinate, wetted *with not less than 20 percent water or mixture of alcohol and water, by mass.*	1.1A	UN0130		1.1A	111, 117	None	62	None	Forbidden	Forbidden	05	25.
		*	*		*	*	*		*	*			
	Lighters, fuse	1.4S	UN0131		1.4S		None	62	None	25 kg	100 kg	01	25.
		*	*		*	*	*		*	*			
	Mannitol hexanitrate, wetted *or* Nitromannite, wetted *with not less than 40 percent water, or mixture of alcohol and water, by mass.*	1.1D	UN0133		1.1D	121	None	62	None	Forbidden	Forbidden	04	25.
		*	*		*	*	*		*	*			
	5-Mercaptotetrazol-1-acetic acid.	1.4C	UN0448		1.4C		None	62	None	Forbidden	75 kg	02	25.
		*	*		*	*	*		*	*			
	Mercury fulminate, wetted *with not less than 20 percent water, or mixture of alcohol and water, by mass.*	1.1A	UN0135		1.1A	111, 117	None	62	None	Forbidden	Forbidden	05	25.
		*	*		*	*	*		*	*			
	Mines *with bursting charge*	1.1F	UN0136		1.1F			62	None	Forbidden	Forbidden	05	25.
	Mines *with bursting charge*	1.1D	UN0137		1.1D			62	62	Forbidden	Forbidden	04	25.

	Mines *with bursting charge*	1.2D	UN0138		1.2D			62	62	Forbidden	Forbidden	04	25.
	Mines *with bursting charge*	1.2F	UN0294		1.2F			62	None	Forbidden	Forbidden	05	25.
	*	*	*	*	*	*	*	*	*	*			
D	Model rocket motor	1.4C	NA0276		1.4C	51	None	62	None	Forbidden	75 kg	02	25.
D	Model rocket motor	1.4S	NA0323		1.4S	51	None	62	None	25 kg	100 kg	01	25.
	*	*	*	*	*	*	*	*	*	*			
	Nitro urea	1.1D	UN0147		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	*	*	*	*	*	*	*	*	*	*			
	5-Nitrobenzotriazol	1.1D	UN0385		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	*	*	*	*	*	*	*	*	*	*			
	Nitrocellulose, *dry or wetted with less than 25 percent water (or alcohol), by mass.*	1.1D	UN0340		1.1D		None	62	None	Forbidden	Forbidden	04	25, 27E.
	*	*	*	*	*	*	*	*	*	*			
	Nitrocellulose, plasticized *with not less than 18 percent plasticizing substance, by mass.*	1.3C	UN0343		1.3C		None	62	None	Forbidden	Forbidden	04	25.
	*	*	*	*	*	*	*	*	*	*			
	Nitrocellulose, *unmodified or plasticized with less than 18 percent plasticizing substance, by mass.*	1.1D	UN0341		1.1D		None	62	None	Forbidden	Forbidden	04	25, 27E.
	Nitrocellulose, wetted *with not less than 25 percent alcohol, by mass.*	1.3C	UN0342		1.3C		None	62	None	Forbidden	Forbidden	04	25.
	*	*	*	*	*	*	*	*	*	*			
	Nitroglycerin, desensitized *with not less than 40 percent non-volatile water insoluble phlegmatizer, by mass.*	1.1D	UN0143		1.1D, 6.1	125	None	62	None	Forbidden	Forbidden	04	25, 21E.
	*	*	*	*	*	*	*	*	*	*			
	Nitroglycerin, solution in alcohol, *with more than 1 percent but not more than 10 percent nitroglycerin.*	1.1D	UN0144		1.1D		None	62	None	Forbidden	Forbidden	04	25, 21E.
	*	*	*	*	*	*	*	*	*	*			
	Nitroguanidine *or* Picrite, *dry or wetted with less than 20 percent water, by mass.*	1.1D	UN0282		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	*	*	*	*	*	*	*	*	*	*			
	Nitrostarch, *dry or wetted with less than 20 percent water, by mass.*	1.1D	UN0146		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	*	*	*	*	*	*	*	*	*	*			
	Nitrotriazolone *or* NTO	1.1D	UN0490		1.1D		None	62	None	Forbidden	Forbidden	04	25.

§ 172.101—HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification Nos.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations (see §§ 173.27 and 175.75)		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
		*	*		*	*	*		*	*			
	Octolite *or* Octol, *dry or wetted with less than 15 percent water, by mass.*	1.1D	UN0266		1.1D		None	62	None	Forbidden	Forbidden	04	25.
		*	*		*	*	*		*	*			
G	Organic peroxide type B, liquid.	5.2	UN3101		5.2, 1	53	152	225	None	Forbidden	Forbidden	D	12, 40, 52, 53.
G	Organic peroxide type B, liquid, temperature controlled.	5.2	UN3111		5.2, 1	53	None	225	None	Forbidden	Forbidden	D	2, 40, 52, 53.
G	Organic peroxide type B, solid.	5.2	UN3102		5.2, 1	53	152	225	None	Forbidden	Forbidden	D	12, 40, 52, 53.
G	Organic peroxide type B, solid, temperature controlled.	5.2	UN3112		5.2, 1	53	None	225	None	Forbidden	Forbidden	D	2, 40, 52, 53.
G	Organic peroxide type C, liquid.	5.2	UN3103		5.2		152	225	None	5 L	10 L	D	12, 40, 52, 53.
G	Organic peroxide type C, liquid, temperature controlled.	5.2	UN3113		5.2		None	225	None	Forbidden	Forbidden	D	2, 40, 52, 53.
G	Organic peroxide type C, solid.	5.2	UN3104		5.2		152	225	None	5 kg	10 kg	D	12, 40, 52, 53.
G	Organic peroxide type C, solid, temperature controlled.	5.2	UN3114		5.2		None	225	None	Forbidden	Forbidden	D	2, 40, 52, 53.
G	Organic peroxide type D, liquid.	5.2	UN3105		5.2		152	225	None	5 L	10 L	D	12, 40, 52, 53.
G	Organic peroxide type D, liquid, temperature controlled.	5.2	UN3115		5.2		None	225	None	Forbidden	Forbidden	D	2, 40, 52, 53.
G	Organic peroxide type D, solid.	5.2	UN3106		5.2		152	225	None	5 kg	10 kg	D	12, 40, 52, 53.
G	Organic peroxide type D, solid, temperature controlled.	5.2	UN3116		5.2		None	225	None	Forbidden	Forbidden	D	2, 40, 52, 53.
G	Organic peroxide type E, liquid.	5.2	UN3107		5.2		152	225	None	10 L	25 L	D	12, 40, 52, 53.
G	Organic peroxide type E, liquid, temperature controlled.	5.2	UN3117		5.2		None	225	None	Forbidden	Forbidden	D	2, 40, 52, 53.
G	Organic peroxide type E, solid.	5.2	UN3108		5.2		152	225	None	10 kg	25 kg	D	12, 40, 52, 53.
G	Organic peroxide type E, solid, temperature controlled.	5.2	UN3118		5.2		None	225	None	Forbidden	Forbidden	D	2, 40, 52, 53.
G	Organic peroxide type F, liquid.	5.2	UN3109		5.2	IP5	152	225	225	10 L	25 L	D	12, 40, 52, 53.
G	Organic peroxide type F, liquid, temperature controlled.	5.2	UN3119		5.2	IP5	None	225	225	Forbidden	Forbidden	D	2, 40, 52, 53.
G	Organic peroxide type F, solid.	5.2	UN3110		5.2	TP33	152	225	225	10 kg	25 kg	D	12, 40, 52, 53.

G	Organic peroxide type F, solid, temperature controlled.	5.2	UN3120		5.2	TP33	None	225	225	Forbidden	Forbidden	D	2, 52, 53.
		*	*		*	*	*		*	*			
G	Oxidizing solid, corrosive, n.o.s.	5.1	UN3085	I	5.1, 8	62	None	211	242	1 kg	15 kg	D	13, 56, 58, 106, 138.
				II	5.1, 8	62, IB6, IP2, T3, TP33.	152	212	242	5 kg	25 kg	B	13, 34, 56, 58, 106, 138.
				III	5.1, 8	62, IB8, IP3, T1, TP33.	152	213	240	25 kg	100 kg	B	13, 34, 56, 58, 106, 138.
		*	*		*	*	*		*	*			
	Pentaerythrite tetranitrate *or* Pentaerythritol tetranitrate *or* PETN, *with not less than 7 percent wax by mass.*	1.1D	UN0411		1.1D	120	None	62	None	Forbidden	Forbidden	04	25.
	Pentaerythrite tetranitrate, wetted *or* Pentaerythritol tetranitrate, wetted, *or* PETN, wetted *with not less than 25 percent water, by mass, or* Pentaerythrite tetranitrate, *or* Pentaerythritol tetranitrate *or* PETN, desensitized *with not less than 15 percent phlegmatizer by mass.*	1.1D	UN0150		1.1D	121	None	62	None	Forbidden	Forbidden	04	25.
		*	*		*	*	*		*	*			
	Pentolite, *dry or wetted with less than 15 percent water, by mass.*	1.1D	UN0151		1.1D		None	62	None	Forbidden	Forbidden	04	25.
		*	*		*	*	*		*	*			
	Powder cake, wetted *or* Powder paste, wetted *with not less than 17 percent alcohol by mass.*	1.1C	UN0433		1.1C		None	62	None	Forbidden	Forbidden	04	25.
	Powder cake, wetted *or* Powder paste, wetted *with not less than 25 percent water, by mass.*	1.3C	UN0159		1.3C		None	62	None	Forbidden	Forbidden	04	25.
		*	*		*	*	*		*	*			
	Powder, smokeless	1.1C	UN0160		1.1C		None	62	None	Forbidden	Forbidden	04	25, 26E.
	Powder, smokeless	1.3C	UN0161		1.3C		None	62	None	Forbidden	Forbidden	04	25, 26E.
	Powder, smokeless	1.4C	UN0509		1.4C		None	62	None	Forbidden	75 kg	02	25.
		*	*		*	*	*		*	*			
	Primers, cap type	1.4S	UN0044		None		None	62	None	25 kg	100 kg	01	25.
	Primers, cap type	1.1B	UN0377		1.1B		None	62	None	Forbidden	Forbidden	05	25.
	Primers, cap type	1.4B	UN0378		1.4B		None	62	None	Forbidden	75 kg	05	25.
		*	*		*	*	*		*	*			
	Primers, tubular	1.3G	UN0319		1.3G		None	62	None	Forbidden	Forbidden	03	25.
	Primers, tubular	1.4G	UN0320		1.4G		None	62	None	Forbidden	75 kg	02	25.
	Primers, tubular	1.4S	UN0376		None		None	62	None	25 kg	100 kg	01	25.
		*	*		*	*	*		*	*			
	Projectiles, *inert with tracer*	1.4S	UN0345		1.4S			62	62	25 kg	100 kg	01	25.
	Projectiles, *inert, with tracer*	1.3G	UN0424		1.3G			62	62	Forbidden	Forbidden	03	25.

§ 172.101—HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification Nos.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations (see §§ 173.27 and 175.75)		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
	Projectiles, *inert, with tracer*	1.4G	UN0425		1.4G			62	62	Forbidden	75 kg	02	25.
	Projectiles, *with burster or expelling charge.*	1.2D	UN0346		1.2D			62	62	Forbidden	Forbidden	04	25.
	Projectiles, *with burster or expelling charge.*	1.4D	UN0347		1.4D			62	62	Forbidden	75 kg	02	25.
	Projectiles, *with burster or expelling charge.*	1.2F	UN0426		1.2F			62	None	Forbidden	Forbidden	05	25.
	Projectiles, *with burster or expelling charge.*	1.4F	UN0427		1.4F			62	None	Forbidden	Forbidden	05	25.
	Projectiles, *with burster or expelling charge.*	1.2G	UN0434		1.2G			62	62	Forbidden	Forbidden	03	25.
	Projectiles, *with burster or expelling charge.*	1.4G	UN0435		1.4G			62	62	Forbidden	75 kg	02	25.
	Projectiles, *with bursting charge.*	1.1F	UN0167		1.1F			62	None	Forbidden	Forbidden	05	25.
	Projectiles, *with bursting charge.*	1.1D	UN0168		1.1D			62	62	Forbidden	Forbidden	04	25.
	Projectiles, *with bursting charge.*	1.2D	UN0169		1.2D			62	62	Forbidden	Forbidden	04	25.
	Projectiles, *with bursting charge.*	1.2F	UN0324		1.2F			62	None	Forbidden	Forbidden	05	25.
	Projectiles, *with bursting charge.*	1.4D	UN0344		1.4D			62	62	Forbidden	75 kg	02	25.
		*	*		*	*	*		*	*			
	Propellant, liquid	1.3C	UN0495		1.3C	37	None	62	None	Forbidden	Forbidden	04	25.
	Propellant, liquid	1.1C	UN0497		1.1C	37	None	62	None	Forbidden	Forbidden	04	25.
	Propellant, solid	1.1C	UN0498		1.1C		None	62	None	Forbidden	Forbidden	04	25, 26E.
	Propellant, solid	1.3C	UN0499		1.3C		None	62	None	Forbidden	Forbidden	04	25, 26E.
	Propellant, solid	1.4C	UN0501		1.4C		None	62	None	Forbidden	Forbidden	02	25.
		*	*		*	*	*		*	*			
	RDX and HMX mixtures, wetted *with not less than 15 percent water by mass or* RDX and HMX mixtures, desensitized *with not less than 10 percent phlegmatizer by mass.*	1.1D	UN0391		1.1D		None	62	None	Forbidden	Forbidden	04	25.
		*	*		*	*	*		*	*			
	Release devices, explosive	1.4S	UN0173		1.4S		None	62	62	25 kg	100 kg	01	25.
		*	*		*	*	*		*	*			
	Rivets, explosive	1.4S	UN0174		1.4S		None	62	62	25 kg	100 kg	01	25.
		*	*		*	*	*		*	*			
	Rocket motors	1.3C	UN0186		1.3C	109	None	62	62	Forbidden	220 kg	04	25.
	Rocket motors	1.1C	UN0280		1.1C	109	None	62	62	Forbidden	Forbidden	04	25.
	Rocket motors	1.2C	UN0281		1.2C	109	None	62	62	Forbidden	Forbidden	04	25.
	Rocket motors, liquid fueled	1.2J	UN0395		1.2J	109	None	62	None	Forbidden	Forbidden	05	25, 23E.
	Rocket motors, liquid fueled	1.3J	UN0396		1.3J	109	None	62	None	Forbidden	Forbidden	05	25, 23E.

	Rocket motors with hypergolic liquids *with or without an expelling charge.*	1.3L	UN0250		1.3L	109	None	62	None	Forbidden	Forbidden	05	25, 14E, 15E.
	Rocket motors with hypergolic liquids *with or without an expelling charge.*	1.2L	UN0322		1.2L	109	None	62	None	Forbidden	Forbidden	05	25, 14E, 15E.
	Rockets, line-throwing	1.2G	UN0238		1.2G		None	62	None	Forbidden	Forbidden	03	25.
	Rockets, line-throwing	1.3G	UN0240		1.3G		None	62	None	Forbidden	75 kg	03	25.
	Rockets, line-throwing	1.4G	UN0453		1.4G		None	62	None	Forbidden	75 kg	02	25.
	Rockets, liquid fueled *with bursting charge.*	1.1J	UN0397		1.1J		None	62	None	Forbidden	Forbidden	05	25, 23E.
	Rockets, liquid fueled *with bursting charge.*	1.2J	UN0398		1.2J		None	62	None	Forbidden	Forbidden	05	25, 23E.
	Rockets, *with bursting charge.*	1.1F	UN0180		1.1F		None	62	None	Forbidden	Forbidden	05	25.
	Rockets, *with bursting charge.*	1.1E	UN0181		1.1E		None	62	62	Forbidden	Forbidden	04	25.
	Rockets, *with bursting charge.*	1.2E	UN0182		1.2E		None	62	62	Forbidden	Forbidden	04	25.
	Rockets, *with bursting charge.*	1.2F	UN0295		1.2F		None	62	None	Forbidden	Forbidden	05	25.
	Rockets, *with expelling charge.*	1.2C	UN0436		1.2C		None	62	62	Forbidden	Forbidden	04	25.
	Rockets, *with expelling charge.*	1.3C	UN0437		1.3C		None	62	62	Forbidden	Forbidden	04	25.
	Rockets, *with expelling charge.*	1.4C	UN0438		1.4C		None	62	62	Forbidden	75 kg	02	25.
	Rockets, *with inert head*	1.3C	UN0183		1.3C		None	62	62	Forbidden	Forbidden	04	25.
		*	*		*	*	*		*	*			
G	Self-reactive liquid type B	4.1	UN3221		4.1	53	151	224	None	Forbidden	Forbidden	D	52, 53.
G	Self-reactive liquid type B, temperature controlled.	4.1	UN3231		4.1	53	None	224	None	Forbidden	Forbidden	D	2, 52, 53.
G	Self-reactive liquid type C	4.1	UN3223		4.1		151	224	None	5 L	10 L	D	52, 53.
G	Self-reactive liquid type C, temperature controlled.	4.1	UN3233		4.1		None	224	None	Forbidden	Forbidden	D	2, 52, 53.
G	Self-reactive liquid type D	4.1	UN3225		4.1		151	224	None	5 L	10 L	D	52, 53.
G	Self-reactive liquid type D, temperature controlled.	4.1	UN3235		4.1		None	224	None	Forbidden	Forbidden	D	2, 52, 53.
G	Self-reactive liquid type E	4.1	UN3227		4.1		151	224	None	10 L	25 L	D	52, 53.
G	Self-reactive liquid type E, temperature controlled.	4.1	UN3237		4.1		None	224	None	Forbidden	Forbidden	D	2, 52, 53.
G	Self-reactive liquid type F	4.1	UN3229		4.1		151	224	None	10 L	25 L	D	52, 53.
G	Self-reactive liquid type F, temperature controlled.	4.1	UN3239		4.1		None	224	None	Forbidden	Forbidden	D	2, 52, 53.
G	Self-reactive solid type B	4.1	UN3222		4.1	53	151	224	None	Forbidden	Forbidden	D	52, 53.
G	Self-reactive solid type B, temperature controlled.	4.1	UN3232		4.1	53	None	224	None	Forbidden	Forbidden	D	2, 52, 53.
G	Self-reactive solid type C	4.1	UN3224		4.1		None	224	None	5 kg	10 kg	D	52, 53.
G	Self-reactive solid type C, temperature controlled.	4.1	UN3234		4.1		None	224	None	Forbidden	Forbidden	D	2, 52, 53.
G	Self-reactive solid type D	4.1	UN3226		4.1		151	224	None	5 kg	10 kg	D	52, 53.
G	Self-reactive solid type D, temperature controlled.	4.1	UN3236		4.1		None	224	None	Forbidden	Forbidden	D	2, 52, 53.
G	Self-reactive solid type E	4.1	UN3228		4.1		151	224	None	10 kg	25 kg	D	52, 53.
G	Self-reactive solid type E, temperature controlled.	4.1	UN3238		4.1		None	224	None	Forbidden	Forbidden	D	2, 52, 53.
G	Self-reactive solid type F	4.1	UN3230		4.1		151	224	None	10 kg	25 kg	D	52, 53.
G	Self-reactive solid type F, temperature controlled.	4.1	UN3240		4.1		None	224	None	Forbidden	Forbidden	D	2, 52, 53.
		*	*		*	*	*		*	*			
	Signal devices, hand	1.4G	UN0191		1.4G		None	62	None	Forbidden	75 kg	02	25.
	Signal devices, hand	1.4S	UN0373		1.4S		None	62	None	25 kg	100 kg	01	25.

§ 172.101—HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification Nos.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations (see §§ 173.27 and 175.75)		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
	Signals, distress, *ship*	1.1G	UN0194		1.1G		None	62	None	Forbidden	Forbidden	03	25.
	Signals, distress, *ship*	1.3G	UN0195		1.3G		None	62	None	Forbidden	75 kg	03	25.
	*	*	*	*	*	*	*	*	*	*	*	*	*
	Signals, railway track, explosive.	1.1G	UN0192		1.1G		None	62	None	Forbidden	Forbidden	03	25.
	Signals, railway track, explosive.	1.4S	UN0193		1.4S		None	62	None	25 kg	100 kg	01	25.
	*	*	*	*	*	*	*	*	*	*	*	*	*
	Signals, smoke	1.1G	UN0196		1.1G		None	62	None	Forbidden	Forbidden	03	25.
	Signals, smoke	1.4G	UN0197		1.4G		None	62	None	Forbidden	75 kg	02	25.
	Signals, smoke	1.2G	UN0313		1.2G		None	62	None	Forbidden	Forbidden	03	25.
	Signals, smoke	1.3G	UN0487		1.3G		None	62	None	Forbidden	Forbidden	03	25.
	*	*	*	*	*	*	*	*	*	*	*	*	*
	Sodium dinitro-o-cresolate, *dry or wetted with less than 15 percent water, by mass.*	1.3C	UN0234		1.3C		None	62	None	Forbidden	Forbidden	04	25, 5E.
	*	*	*	*	*	*	*	*	*	*	*	*	*
	Sodium picramate, *dry or wetted with less than 20 percent water, by mass.*	1.3C	UN0235		1.3C		None	62	None	Forbidden	Forbidden	04	25, 5E.
	*	*	*	*	*	*	*	*	*	*	*	*	*
	Sounding devices, explosive.	1.2F	UN0204		1.2F		None	62	62	Forbidden	Forbidden	05	25.
	Sounding devices, explosive.	1.1F	UN0296		1.1F		None	62	62	Forbidden	Forbidden	05	25.
	Sounding devices, explosive.	1.1D	UN0374		1.1D		None	62	62	Forbidden	Forbidden	04	25.
	Sounding devices, explosive.	1.2D	UN0375		1.2D		None	62	62	Forbidden	Forbidden	04	25.
	*	*	*	*	*	*	*	*	*	*	*	*	*
G	Substances, explosive, n.o.s.	1.1L	UN0357		1.1L	101	None	62	None	Forbidden	Forbidden	05	25, 14E, 15E.
G	Substances, explosive, n.o.s.	1.2L	UN0358		1.2L	101	None	62	None	Forbidden	Forbidden	05	25, 14E, 15E.
G	Substances, explosive, n.o.s.	1.3L	UN0359		1.3L	101	None	62	None	Forbidden	Forbidden	05	25, 14E, 15E.
G	Substances, explosive, n.o.s.	1.1A	UN0473		1.1A	101, 111	None	62	None	Forbidden	Forbidden	05	25.
G	Substances, explosive, n.o.s.	1.1C	UN0474		1.1C	101	None	62	None	Forbidden	Forbidden	04	25.
G	Substances, explosive, n.o.s.	1.1D	UN0475		1.1D	101	None	62	None	Forbidden	Forbidden	04	25.
G	Substances, explosive, n.o.s.	1.1G	UN0476		1.1G	101	None	62	None	Forbidden	Forbidden	03	25.
G	Substances, explosive, n.o.s.	1.3C	UN0477		1.3C	101	None	62	None	Forbidden	Forbidden	04	25.
G	Substances, explosive, n.o.s.	1.3G	UN0478		1.3G	101	None	62	None	Forbidden	Forbidden	03	25.

G	Substances, explosive, n.o.s.	1.4C	UN0479		1.4C	101	None	62	None	Forbidden	75 kg	02		25.
G	Substances, explosive, n.o.s.	1.4D	UN0480		1.4D	101	None	62	None	Forbidden	75 kg	02		25.
G	Substances, explosive, n.o.s.	1.4S	UN0481		1.4S	101	None	62	None	25 kg	75 kg	01		25.
G	Substances, explosive, n.o.s.	1.4G	UN0485		1.4G	101	None	62	None	Forbidden	75 kg	02		25.
G	Substances, explosive, very insensitive, n.o.s *or* Substances, EVI, n.o.s.	1.5D	UN0482		1.5D	101	None	62	None	Forbidden	Forbidden	03		25.
		*	*		*	*	*		*	*				
	Tetranitroaniline	1.1D	UN0207		1.1D		None	62	None	Forbidden	Forbidden	04		25.
		*	*		*	*	*		*	*				
	Tetrazol-1-acetic acid	1.4C	UN0407		1.4C		None	62	None	Forbidden	75 kg	02		25.
		*	*		*	*	*		*	*				
	Torpedoes, liquid fueled, *with inert head.*	1.3J	UN0450		1.3J			62	None	Forbidden	Forbidden	05		25, 23E.
	Torpedoes, liquid fueled, *with or without bursting charge.*	1.1J	UN0449		1.1J			62	None	Forbidden	Forbidden	05		25, 23E.
	Torpedoes *with bursting charge.*	1.1E	UN0329		1.1E			62	62	Forbidden	Forbidden	04		25.
	Torpedoes *with bursting charge.*	1.1F	UN0330		1.1F			62	None	Forbidden	Forbidden	05		25.
	Torpedoes *with bursting charge.*	1.1D	UN0451		1.1D			62	62	Forbidden	Forbidden	04		25.
		*	*		*	*	*		*	*				
D	Toy Caps	1.4S	NA0337		1.4S		None	62	None	25 kg	100 kg	01		25.
	Tracers for ammunition	1.3G	UN0212		1.3G		None	62	None	Forbidden	Forbidden	03		25.
	Tracers for ammunition	1.4G	UN0306		1.4G		None	62	None	Forbidden	75 kg	02		25.
		*	*		*	*	*		*	*				
	Trinitro-m-cresol	1.1D	UN0216		1.1D		None	62	None	Forbidden	Forbidden	04		25, 5E.
		*	*		*	*	*		*	*				
	Trinitroaniline *or* Picramide	1.1D	UN0153		1.1D		None	62	None	Forbidden	Forbidden	04		25.
	Trinitroanisole	1.1D	UN0213		1.1D		None	62	None	Forbidden	Forbidden	04		25.
		*	*		*	*	*		*	*				
	Trinitrobenzene, *dry or wetted with less than 30 percent water, by mass.*	1.1D	UN0214		1.1D		None	62	None	Forbidden	Forbidden	04		25.
		*	*		*	*	*		*	*				
	Trinitrobenzenesulfonic acid	1.1D	UN0386		1.1D		None	62	None	Forbidden	Forbidden	04		25, 5E.
	Trinitrobenzoic acid, *dry or wetted with less than 30 percent water, by mass.*	1.1D	UN0215		1.1D		None	62	None	Forbidden	Forbidden	04		25.
		*	*		*	*	*		*	*				
	Trinitrochlorobenzene *or* Picryl chloride.	1.1D	UN0155		1.1D		None	62	None	Forbidden	Forbidden	04		25.
		*	*		*	*	*		*	*				
	Trinitrofluorenone	1.1D	UN0387		1.1D		None	62	None	Forbidden	Forbidden	04		25.
		*	*		*	*	*		*	*				
	Trinitronaphthalene	1.1D	UN0217		1.1D		None	62	None	Forbidden	Forbidden	04		25.
	Trinitrophenetole	1.1D	UN0218		1.1D		None	62	None	Forbidden	Forbidden	04		25.

§ 172.101—HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification Nos.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations (see §§ 173.27 and 175.75)		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
	Trinitrophenol (picric acid), wetted, *with not less than 10 percent water by mass*.	4.1	UN3364	I	4.1	23, A8, A19, N41, N84.	None	211	None	0.5 kg	0.5 kg	E	36.
	Trinitrophenol *or* Picric acid, *dry or wetted with less than 30 percent water, by mass*.	1.1D	UN0154		1.1D		None	62	None	Forbidden	Forbidden	04	25, 5E.
	Trinitrophenol, wetted *with not less than 30 percent water, by mass*.	4.1	UN1344	I	4.1	162, A8, A19, N41.	None	211	None	1 kg	15 kg	E	28, 36.
	*	*		*	*	*		*	*				
	Trinitrophenylmethylnitramine *or* Tetryl.	1.1D	UN0208		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	Trinitroresorcinol *or* Styphnic acid, *dry or wetted with less than 20 percent water, or mixture of alcohol and water, by mass*.	1.1D	UN0219		1.1D		None	62	None	Forbidden	Forbidden	04	25, 5E.
	Trinitroresorcinol, wetted *or* Styphnic acid, wetted *with not less than 20 percent water, or mixture of alcohol and water by mass*.	1.1D	UN0394		1.1D		None	62	None	Forbidden	Forbidden	04	25, 5E.
	*	*		*	*	*		*	*				
	Trinitrotoluene and Trinitrobenzene mixtures *or* TNT and trinitrobenzene mixtures *or* TNT and hexanitrostilbene mixtures *or* Trinitrotoluene and hexanitrostilnene mixtures.	1.1D	UN0388		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	Trinitrotoluene mixtures containing Trinitrobenzene and Hexanitrostilbene *or* TNT mixtures containing trinitrobenzene and hexanitrostilbene.	1.1D	UN0389		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	Trinitrotoluene *or* TNT, *dry or wetted with less than 30 percent water, by mass*.	1.1D	UN0209		1.1D		None	62	None	Forbidden	Forbidden	04	25.
	*	*		*	*	*		*	*				
	Tritonal	1.1D	UN0390		1.1D		None	62	None	Forbidden	Forbidden	04	25.

		*	*		*	*	*		*	*				
	Urea nitrate, *dry or wetted with less than 20 percent water, by mass*.	1.1D	UN0220		1.1D	119	None	62	None	Forbidden	Forbidden	04		25.
		*	*		*	*	*		*	*				
	Warheads, rocket *with burster or expelling charge*.	1.4D	UN0370		1.4D		None	62	62	Forbidden	75 kg	02		25.
	Warheads, rocket *with burster or expelling charge*.	1.4F	UN0371		1.4F		None	62	None	Forbidden	Forbidden	05		25.
	Warheads, rocket *with bursting charge*.	1.1D	UN0286		1.1D		None	62	62	Forbidden	Forbidden	04		25.
	Warheads, rocket *with bursting charge*.	1.2D	UN0287		1.2D		None	62	62	Forbidden	Forbidden	04		25.
	Warheads, rocket *with bursting charge*.	1.1F	UN0369		1.1F		None	62	None	Forbidden	Forbidden	05		25.
	Warheads, torpedo *with bursting charge*.	1.1D	UN0221		1.1D		None	62	62	Forbidden	Forbidden	04		25.
		*	*		*	*	*		*	*				
I	White asbestos (*chrysotile, actinolite, anthophyllite, tremolite*).	9	UN2590	III	9	156, IB8, IP2, IP3, T1, TP33.	155	216	216	200 kg	200 kg	A		34, 40.
		*	*		*	*	*		*	*				
	Zirconium picramate, *dry or wetted with less than 20 percent water, by mass*.	1.3C	UN0236		1.3C		None	62	None	Forbidden	Forbidden	04		25, 5E.
		*	*		*	*	*		*	*				

* * * * *

■ 10. In § 172.102, in paragraph (c)(1) Special Provision 136 is revised to read as follows:

§ 172.102 Special provisions.

* * * * *

(c) * * *

(1) * * *

136 This entry only applies to machinery and apparatus containing hazardous materials as an integral element of the machinery or apparatus. It may not be used to describe machinery or apparatus for which a proper shipping name exists in the § 172.101 Table. Except when approved by the Associate Administrator, machinery or apparatus may only contain hazardous materials for which exceptions are referenced in Column (8) of the § 172.101 Table and are provided in part 173, subparts D and G, of this subchapter. Hazardous materials shipped under this entry are excepted from the labeling requirements of this subchapter unless offered for transportation or transported by aircraft and are not subject to the placarding requirements of part 172, subpart F, of this subchapter. Orientation markings as described in § 172.312(a)(2) are required when liquid hazardous materials may escape due to incorrect orientation. The machinery or apparatus, if unpackaged, or the packaging in which it is contained shall be marked ''Dangerous goods in machinery'' or ''Dangerous goods in apparatus,'' as appropriate, with the identification number UN3363. For transportation by aircraft, machinery or apparatus may not contain any material forbidden for transportation by passenger or cargo aircraft. The Associate Administrator may except from the requirements of this subchapter equipment, machinery and apparatus provided:

a. It is shown that it does not pose a significant risk in transportation;

b. The quantities of hazardous materials do not exceed those specified in § 173.4a of this subchapter; and

c. The equipment, machinery or apparatus conforms with § 173.222 of this subchapter.

* * * * *

■ 11. In § 172.201, paragraph (d) is revised to read as follows:

§ 172.201 Preparation and retention of shipping papers.

* * * * *

(d) *Emergency response telephone number.* Except as provided in § 172.604(d), a shipping paper must contain an emergency response telephone number and, if utilizing an emergency response information telephone number service provider, identify the person (by name or contract number) who has a contractual agreement with the service provider, as prescribed in subpart G of this part.

* * * * *

■ 12. In § 172.301, paragraph (f) is revised to read as follows:

§ 172.301 General marking requirements for non-bulk packagings.

* * * * *

(f) *NON-ODORIZED marking on cylinders containing LPG.* No person may offer for transportation or transport a specification cylinder, except a Specification 2P or 2Q container or a Specification 39 cylinder, containing unodorized liquefied petroleum gas (LPG) unless it is legibly marked NON-ODORIZED or NOT ODORIZED in letters not less than 6.3 mm (0.25 inches) in height near the marked proper shipping name required by paragraph (a) of this section. The NON-ODORIZED or NOT ODORIZED marking may appear on a cylinder used for both unodorized and odorized LPG.

■ 13. In 173.326, paragraph (d) is revised to read as follows:

§ 172.326 Portable tanks.

* * * * *

(d) *NON-ODORIZED marking on portable containing LPG.* No person may offer for transportation or transport a portable tank containing unodorized liquefied petroleum gas (LPG) as authorized in § 173.315(b)(1) unless it is legibly marked NON-ODORIZED or NOT ODORIZED on two opposing sides near the marked proper shipping name required by paragraph (a) of this section, or near the placards. The NON-ODORIZED or NOT ODORIZED marking may appear on a portable tank used for both unodorized and odorized LPG.

■ 14. In 173.328, paragraph (e) is revised to read as follows:

§ 172.328 Cargo tanks.

* * * * *

(e) *NON-ODORIZED marking on cargo tanks containing LPG.* No person may offer for transportation or transport a cargo tank containing unodorized liquefied petroleum gas (LPG) as authorized in § 173.315(b)(1) unless it is legibly marked NON-ODORIZED or NOT ODORIZED on two opposing sides near the marked proper shipping name as specified in paragraph (b)(1) of this section, or near the placards. The NON-ODORIZED or NOT ODORIZED marking may appear on a cargo tank used for both unodorized and odorized LPG.

■ 15. In 173.330, paragraph (c) is revised to read as follows:

§ 172.330 Tank cars and multi-unit tank car tanks.

* * * * *

(c) No person may offer for transportation or transport a tank car or multi-unit tank car tank containing unodorized liquefied petroleum gas (LPG) unless it is legibly marked NON-ODORIZED or NOT ODORIZED on two opposing sides near the marked proper shipping name required by paragraphs (a)(1) and (a)(2) of this section, or near the placards. The NON-ODORIZED or NOT ODORIZED marking may appear on a tank car or multi-unit tank car tank used for both unodorized and odorized LPG.

■ 16. In § 172.406, paragraph (d) is revised to read as follows:

§ 172.406 Placement of labels.

* * * * *

(d) *Contrast with background.* Each label must be printed on or affixed to a background color contrasting to the color specification of the label as required by § 172.407(d)(1) of this part, or must have a dotted or solid line outer border, to enhance the visibility of the label. However, labels created with a dotted or solid line outer border need not be limited to only backgrounds of non-contrasting color.

* * * * *

■ 17. In § 172.407, paragraph (d)(4)(ii) is revised to read as follows:

§ 172.407 Label specifications.

* * * * *

(d) * * *

(4) * * *

(ii) Color charts conforming to appendix A to this part are on display at the Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

* * * * *

■ 18. In § 172.514, paragraph (c)(4) is revised to read as follows:

§ 172.514 Bulk Packagings.

* * * * *

(c) * * *

(4) For an IBC labeled in accordance with subpart E of this part, instead of being placarded, the IBC may display the proper shipping name and UN identification number markings in accordance with the size requirements of § 172.301(a)(1) in place of the UN number on an orange panel, placard or white square-on-point configuration as prescribed in § 172.336(b); and

* * * * *

■ 19. In 172.604, paragraph (a) is revised to read as follows:

§ 172.604 Emergency response telephone number.

(a) A person who offers a hazardous material for transportation must provide a numeric emergency response telephone number, including the area code, for use in an emergency involving the hazardous material. For telephone numbers outside the United States, the international access code or the ''+'' (plus) sign, country code, and city code, as appropriate, that are needed to complete the call must be included. The telephone number must be—

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 20. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81 and 1.97.

■ 21. In § 173.4a, paragraph (a) introductory text is revised to read as follows:

§ 173.4a Excepted quantities.

(a) Excepted quantities of materials, other than articles, are not subject to requirements of this subchapter except for:

* * * * *

■ 22. In § 173.21, paragraph (e) is revised to read as follows:

§ 173.21 Forbidden materials and packages.

* * * * *

(e) A material in the same packaging, freight container, overpack, or transport vehicle with another material, the mixing of which is likely to cause a dangerous evolution of heat, produce flammable or poisonous gases or vapors, or produce corrosive materials.

* * * * *

■ 23. In § 173.24a, paragraph (c)(1)(iv) is revised to read as follows:

§ 173.24a Additional general requirements for non-bulk packagings and packages.

* * * * *

(c) * * *

(1) * * *

(iv) For transportation by aircraft, the total net quantity does not exceed the lowest permitted maximum net quantity per package as shown in Column (9a) or (9b), as appropriate, of the § 172.101 Table. The permitted maximum net quantity must be calculated in kilograms if a package contains both a liquid and a solid. These requirements do not apply to limited quantity hazardous materials packaged in accordance with § 173.27(f)(2) of this part.

* * * * *

■ 24. In § 173.27, paragraph (f)(2)(i) is revised to read as follows:

§ 173.27 General requirements for transportation by aircraft.

* * * * *

(f) * * *

(2) * * *

(i) Unless otherwise specified in this part, or in subpart C of part 171 of this subchapter, when a limited quantity of hazardous material packaged in a combination packaging is intended for transportation aboard an aircraft, the inner and outer packagings must conform to the quantity limitations set forth in Table 3 of this paragraph. Materials and articles must be authorized for transportation aboard a passenger-carrying aircraft (see Column (9A) of the § 172.101 Hazardous Materials Table of this subchapter). Not all unauthorized materials or articles may be indicated in this table. For mixed content packages of limited quantity material, the total net quantity must not exceed the lowest permitted maximum net quantity (for each of the hazard classes or divisions represented in the package) per outer package set forth in Table 3 of this paragraph. The permitted maximum net quantity must be calculated in kilograms for a package that contains both a solid and a liquid. Unless otherwise excepted, packages must be marked and labeled in accordance with this section and any additional requirements in subparts D and E, respectively, of part 172 of this subchapter. Materials or articles not authorized as limited quantity by aircraft are:

* * * * *

■ 25. In § 173.150, paragraphs (f)(3)(ix) and (x) are revised and paragraph (f)(3)(xi) is added as follows:

§ 173.150 Exceptions for Class 3 (flammable and combustible liquids).

* * * * *

(f) * * *

(3) * * *

(ix) The training requirements of subpart H of part 172 of this subchapter;

(x) Emergency response information requirements of subpart G of part 172; and

(xi) For bulk packagings only, registration requirements of subpart G of part 107 of this subchapter.

* * * * *

■ 26. In 173.158, paragraph (e) is revised to read as follows:

§ 173.158 Nitric acid.

* * * * *

(e) Nitric acid of less than 90 percent concentration, when offered for transportation or transported by rail, highway, or water may be packaged in 4A, 4B, or 4N metal boxes, 4G fiberboard boxes or 4C1, 4C2, 4D or 4F wooden boxes with inside glass packagings of not over 2.5 L (0.66 gallon) capacity each. When placed in wooden or fiberboard outer packagings, the glass inner packagings must be packed in tightly-closed, non-reactive intermediate packagings, cushioned with a non-reactive absorbent material.

* * * * *

■ 27. In § 173.159, paragraph (j) is added as follows:

§ 173.159 Batteries, wet.

* * * * *

(j) Damaged electric storage batteries incapable of retaining battery fluid inside the outer casing during transportation may be transported by highway or rail provided the batteries are transported in non-bulk packaging, meet the requirements of paragraph (a) of this section, and are prepared for transport under one or more of the following conditions:

(1) Drain the battery of fluid to eliminate the potential for leakage during transportation;

(2) Individually pack the battery in a leakproof intermediate package with sufficient non-reactive absorbent material capable of absorbing the release of any electrolyte;

(3) Place the intermediate packaging in a leakproof outer packaging that conforms to the general packaging requirements of subpart B of this part; or,

(4) Pack the battery in a salvage packaging in accordance with the provisions of § 173.3(c) of this part.

■ 28. In § 173.166, paragraph (e)(6) introductory text is revised to read as follows:

§ 173.166 Air bag inflators, air bag modules and seat-belt pretensioners.

* * * * *

(e) * * *

(6) *Devices from or for a motor vehicle.* When removed from or having been intended to be used in a motor vehicle, a serviceable air bag inflator, air bag module, or seat-belt pretensioner of Class 9 (UN3268) that was manufactured as required for use in the United States and is to be offered for domestic transportation by highway or cargo vessel to a recycling or waste disposal facility may be offered for transportation and transported in the following authorized packaging:

* * * * *

■ 29. In § 173.170, paragraph (b) is revised to read as follows:

§ 173.170 Black powder for small arms.

* * * * *

(b) The total quantity of black powder in one transport vehicle or freight container may not exceed 45.4 kg (100 pounds) net mass. No more than four freight containers may be on board one cargo vessel;

* * * * *

■ 30. In § 173.171, paragraph (b)(1) is revised to read as follows:

§ 173.171 Smokeless powder for small arms.

* * * * *

(b) * * *

(1) One transport vehicle or cargo-only aircraft; or

* * * * *

■ 31. In § 173.199, paragraph (a)(4) is revised to read as follows:

§ 173.199 Category B infectious substances.

(a) * * *

(4) The completed package must be designed, constructed, maintained, filled, its contents limited, and closed so that under conditions normally encountered in transportation, including removal from a pallet or overpack for subsequent handling, there will be no release of hazardous material into the environment. Package effectiveness must not be substantially reduced for minimum and maximum temperatures, changes in humidity and pressure, and shocks, loadings and vibrations normally encountered during transportation. The packaging must be capable of successfully passing the drop test in § 178.609(d) of this subchapter at a drop height of at least 1.2 meters (3.9 feet). Following the drop test, there must be no leakage from the primary receptacle, which must remain protected by absorbent material, when required, in the secondary packaging. At least one surface of the outer packaging must have a minimum dimension of 100 mm by 100 mm (3.9 inches).

* * * * *

■ 32. In § 173.216, paragraph (c)(1) is revised to read as follows:

§ 173.216 Asbestos, blue, brown or white.

* * * * *

(c) * * *

(1) Rigid, leaktight packagings,, such as metal, plastic or fiber drums, portable tanks, hopper-type rail cars, hopper-type motor vehicles or additional bulk packagings authorized in § 173.240;

* * * * *

■ 33. In § 173.225, the table in paragraph (d)(4) is revised to read as follows:

§ 173.225 Packaging requirements and other provisions for organic peroxides.

* * * * *

(d) * * *

(4) The maximum quantity per packaging or package for Packing Methods OP1–OP8 must be as follows:

MAXIMUM QUANTITY PER PACKAGING/PACKAGE

[For packing methods OP1 to OP8]

Maximum quantity	Packing method							
	OP1	OP2 [1]	OP3	OP4 [1]	OP5	OP6	OP7	OP8
Solids and combination packagings (liquid and solid) (kg)	0.5	0.5/10	5	5/25	25	50	50	[2] 400
Liquids (L)	0.5	.....	5	.....	30	60	60	[3] 225

[1] If two values are given, the first applies to the maximum net mass per inner packaging and the second to the maximum net mass of the complete package.

[2] 60 kg for jerricans/200 kg for boxes and, for solids, 400 kg in combination packagings with outer packagings comprising boxes (4C1, 4C2, 4D, 4F, 4G, 4H1, and 4H2) and with inner packagings of plastics or fiber with a maximum net mass of 25 kg.

[3] 60 L for jerricans.

* * * * *

■ 34. In § 173.301, paragraph (g)(1)(iii) is revised to read as follows:

§ 173.301 General requirements for shipment of compressed gases and other hazardous materials in cylinders, UN pressure receptacles and spherical pressure vessels.

* * * * *

(g) * * *

(1) * * *

(iii) Acetylene as authorized by § 173.303. Mobile acetylene trailers must be maintained, operated and transported in accordance with CGA Pamphlet G–1.6 (IBR, see § 171.7 of this subchapter).

* * * * *

■ 35. In § 173.304a, paragraph (d)(5) is added as follows:

§ 173.304a Additional requirements for shipment of liquefied compressed gases in specification cylinders.

* * * * *

(d) * * *

(5) *Odorization.* (i) All liquefied petroleum gas must be odorized as required in this paragraph to indicate positively, by a distinctive odor, the presence of gas down to a concentration in air of not over one-fifth the lower limit of combustibility; however, odorization is not required if it is harmful in the use or further processing of the liquefied petroleum gas or if it will serve no useful purpose as a warning agent in such use or further processing.

(A) The lower limits of combustibility of the more commonly used liquefied petroleum gases are: Propane, 2.15 percent; butane, 1.55 percent. These figures represent volumetric percentages of gas-air mixtures in each case.

(B) The use of 1.0 pound of ethyl mercaptan, 1.0 pound of thiophane, or 1.4 pounds of amyl mercaptan per 10,000 gallons of liquefied petroleum gas is considered sufficient to meet the requirements of this paragraph. Use of another odorant is not prohibited so long as there is enough to meet the requirements of this paragraph.

(ii) Except as provided in paragraph (d)(5)(i), the offeror must ensure that enough odorant will remain in the cylinder during the course of transportation. The shipper must have procedures in place to:

(A) Ensure quantitative testing methods are used to measure the amount of odorant in the liquefied petroleum gas;

(B) Ensure that, when the odorization of liquefied petroleum gas is manually injected, the required amount of odorant is added;

(C) Ensure that, when odorization of liquefied petroleum gas is automatically injected, equipment calibration checks are conducted to ensure the required amount of odorant is consistently added;

(D) Ensure quality control measures are in place to make sure that persons who receive cylinders that have been subjected to any condition that could lead to corrosion of the cylinder or receive new or recently cleaned cylinders are notified of this information and that a person filling these packagings implement quality control measures to ensure that potential odorant fade is addressed;

(E) Inspect a cylinder for signs of oxidation or corrosion;

(F) Take corrective action needed to ensure enough odorant remains in the cylinder during the course of transportation, such as increasing the amount of odorant added to the liquefied petroleum gas; and

(G) Address odorant fade.

* * * * *

■ 36. In § 173.306, paragraph (k) is revised to read as follows

§ 173.306 Limited quantities of compressed gases.

* * * * *

(k) *Aerosols for recycling or disposal.* Aerosols, as defined in § 171.8 of this subchapter, containing a limited quantity which conforms to the provisions of paragraph (a)(3), (a)(5), (b)(1), (b)(2), or (b)(3) of this section are excepted from the labeling requirements of subpart E of part 172 this subchapter, the specification packaging requirements of this subchapter when packaged according to this paragraph, the shipping paper requirements of subpart C of part 172 of this subchapter (unless the material meets the definition of a hazardous substance or hazardous waste), and the 30 kg (66 pounds) gross weight limitation, when transported by motor vehicle for purposes of recycling or disposal under the following conditions:

(1) The strong outer packaging and its contents must not exceed a gross weight of 500 kg (1,100 pounds);

(2) Each aerosol container must be secured with a cap to protect the valve stem or the valve stem must be removed;

(3) Each completed packages must be marked in accordance with § 172.315(a);

(4) If the package contains aerosols conforming to the provisions of paragraph (a)(3), (a)(5), or (b)(1), it must also be marked ''INSIDE CONTAINERS COMPLY WITH PRESCRIBED REGULATIONS''; and

(5) The packaging must be offered for transportation or transported by—

(i) Private or contract motor carrier; or

(ii) Common carrier in a motor vehicle under exclusive use for such service.

* * * * *

■ 37. In § 173.314, revise paragraph (h) as follows:

§ 173.314 Compressed gases in tank cars and multi-unit tank cars.

* * * * *

(h) *Special requirements for liquefied petroleum gas (odorization).* (1) All liquefied petroleum gas must be odorized as required in this paragraph to indicate positively, by a distinctive odor, the presence of gas down to a concentration in air of not over one-fifth the lower limit of combustibility; however, odorization is not required if it is harmful in the use or further processing of the liquefied petroleum gas or if it will serve no useful purpose as a warning agent in such use or further processing.

(i) The lower limits of combustibility of the more commonly used liquefied petroleum gases are: propane, 2.15 percent; butane, 1.55 percent. These figures represent volumetric percentages of gas-air mixtures in each case.

(ii) The use of 1.0 pound of ethyl mercaptan, 1.0 pound of thiophane, or 1.4 pounds of amyl mercaptan per 10,000 gallons of liquefied petroleum gas is considered sufficient to meet the requirements of this paragraph. Use of another odorant is not prohibited so long as there is enough to meet the requirements of this paragraph.

(2) Except as provided in paragraph (h)(1)(i), the shipper must ensure that enough odorant will remain in the tank car during the course of transportation. The shipper must have procedures in place to:

(i) Ensure quantitative testing methods are used to measure the amount of odorant in the liquefied petroleum gas;

(ii) Ensure that, when the odorization of liquefied petroleum gas is manually injected, the require amount of odorant is added;

(iii) Ensure that, when odorization of liquefied petroleum gas is automatically injected, equipment calibration checks are conducted to ensure the required amount of odorant is consistently added;

(iv) Ensure quality control measures are in place to mark sure that persons who receive tank cars that have been subjected to any condition that could lead to corrosion of the tank car or receive new or recently cleaned tank cars are notified of this information and that a person filling these packagings implement quality control measures to so that potential odorant fade is addressed;

(v) Inspect a tank car for signs of oxidation or corrosion;

(vi) Take corrective action needed to ensure enough odorization remains in the tank car during the course of transportation, such as increasing the amount of odorant added to the liquefied petroleum gas; and

(vii) Address odorant fade.

* * * * *

■ 38. In § 173.315, paragraph (b) is revised to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tanks.

* * * * *

(b) * * *

(1) *Odorization.* All liquefied petroleum gas must be odorized as required in this paragraph to indicate positively, by a distinctive odor, the presence of gas down to a concentration in air of not over one-fifth the lower limit of combustibility; however, odorization is not required if it is harmful in the use or further processing of the liquefied petroleum gas or if it will serve no useful purpose as a warning agent in such use or further processing.

(i) The lower limits of combustibility of the more commonly used liquefied petroleum gases are: propane, 2.15 percent; butane, 1.55 percent. These figures represent volumetric percentages of gas-air mixtures in each case.

(ii) The use of 1.0 pound of ethyl mercaptan, 1.0 pound of thiophane, or 1.4 pounds of amyl mercaptan per 10,000 gallons of liquefied petroleum gas is considered sufficient to meet the requirements of this paragraph. Use of any other odorant is not prohibited so long as there is enough to meet the requirements of this paragraph.

(2) Except as provided in paragraph (b)(1)(i), the shipper must ensure that enough odorant will remain in the cargo tank or portable tank during the course of transportation. The shipper must have procedures in place to:

(i) Ensure quantitative testing methods are used to measure the amount of odorant in the liquefied petroleum gas;

(ii) Ensure that, when the odorization of liquefied petroleum gas is manually injected, the required amount of odorant is being added;

(iii) Ensure that, when odorization of liquefied petroleum gas is automatically injected, equipment calibration checks are conducted to ensure the required amount of odorant is consistently added;

(iv) Ensure that quality control measures are in place to make sure that persons who receive cargo tanks or portable tanks that have been subjected to any condition that could lead to corrosion of the packaging or receive

new or recently cleaned cargo tanks or portable tanks are notified of this information and that a person filling these packagings implement quality control measures to ensure that potential odorant fade is addressed;

(v) Inspect a cargo tank or portable tank for signs of oxidation or corrosion;

(vi) Take corrective action needed to ensure enough odorant remains in the cargo tank or portable tank during the course of transportation, such as increasing the amount of odorant added to the liquefied petroleum gas; and

(vii) Address odorant fade.

* * * * *

PART 175—CARRIAGE BY AIR

■ 39. The authority citation for part 175 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

■ 40. In § 175.1, paragraph (d) is added to read as follows:

§ 175.1 Purpose, scope and applicability.

* * * * *

(d) The requirements of this subchapter does not apply to transportation of hazardous material in support of dedicated air ambulance, firefighting, or search and rescue operations performed in compliance with the operator requirements under federal air regulations, the 14 CFR.

* * * * *

■ 41. In § 175.8, paragraph (b)(1) is revised to read as follows:

§ 175.8 Exceptions for operator equipment and items of replacement.

* * * * *

(b) * * *

(1) Oxygen, or any hazardous material used for the generation of oxygen, for medical use by a passenger, which is furnished by the aircraft operator in accordance with 14 CFR 121.574, 125.219, or 135.91. For the purposes of this paragraph, an aircraft operator that does not hold a certificate under 14 CFR parts 121, 125, or 135 may apply this exception in conformance with 14 CFR 121.574, 125.219, or 135.91 in the same manner as required for a certificate holder. See § 175.501 of this part for additional requirements applicable to the stowage of oxygen.

* * * * *

§ 175.9 [Amended]

■ 42. In § 175.9, remove and reserve paragraph (b)(4).

■ 43. In § 175.10, paragraphs (a)(6), (a)(22) and (a)(24) are revised to read as follows:

§ 175.10 Exceptions for passengers, crewmembers, and air operators.

(a) * * *

(6) Hair curlers (curling irons) containing a hydrocarbon gas such as butane, no more than one per person, in carry-on baggage only. The safety cover must be securely fitted over the heating element. Gas refills for such curlers are not permitted in carry-on or checked baggage.

* * * * *

(22) Non-infectious specimens in preservative solutions transported in accordance with § 173.4b(b).

* * * * *

(24) Small cartridges fitted into or securely packed with devices with no more than four small cylinders of carbon dioxide or other suitable gas in Division 2.2. The water capacity of each cartridge must not exceed 50 mL (equivalent to a 28 g carbon dioxide cartridge), with the approval of the operator.

* * * * *

■ 44. In § 175.75, in paragraph (e)(2) is revised to read as follows:

§ 175.75 Quantity limitations and cargo location.

* * * * *

(e) * * *

(2) Packages of hazardous materials transported aboard a cargo aircraft, when other means of transportation are impracticable or not available, in accordance with procedures approved in writing by the FAA Regional Office in the region where the operator is certificated.

* * * * *

PART 176—CARRIAGE BY VESSEL

■ 45. The authority citation for part 176 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

■ 46. In § 176.30, paragraph (a)(4) is revised to read as follows:

§ 176.30 Dangerous cargo manifest.

(a) * * *

(4) The number and description of packages (barrels, drums, cylinders, boxes, etc.) and gross weight for each type of package;

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

■ 47. The authority citation for part 177 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

* * * * *

■ 48. In § 177.840, paragraph (a)(3) is added to read as follows:

§ 177.840 Class 2 (gases) materials.

* * * * *

(a) * * *

(3) *Cylinders for acetylene.* Cylinders containing acetylene and manifolded as part of a mobile acetylene trailer system must be transported in accordance with § 173.301(g).

* * * * *

■ 49. In § 177.848, revise paragraph (e)(5) to read as follows:

§ 177.848 Segregation of hazardous materials.

* * * * *

(e) * * *

(5) The note ''A'' in the second column of the table means that, notwithstanding the requirements of the letter ''X'', ammonium nitrate (UN1942) and ammonium nitrate fertilizer may be loaded or stored with Division 1.1 (explosive) or Division 1.5 materials, unless otherwise prohibited by § 177.835(c).

* * * * *

PART 178—SPECIFICATIONS FOR PACKAGINGS

■ 50. The authority citation for part 178 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

■ 51. In § 178.65, paragraph (i)(1) is revised to read as follows:

§ 178.65 Specification 39 non-reusable (non-refillable) cylinders.

* * * * *

(i) * * *

(1) The markings required by this section must be durable and waterproof. The requirements of § 178.35(g) do not apply to this section.

* * * * *

■ 52. In § 178.337–17, paragraph (a) is revised to read as follows:

§ 178.337–17 Marking.

(a) *General.* Each cargo tank certified after October 1, 2004 must have a corrosion-resistant metal name plate (ASME Plate); and each cargo tank motor vehicle certified after October 1, 2004 must have a specification plate, permanently attached to the cargo tank by brazing, welding, or other suitable means on the left side near the front, in a place accessible for inspection. If the specification plate is attached directly to the cargo tank wall by welding, it must be welded to the tank before the cargo tank is postweld heat treated.

* * * * *

■ 53. In § 178.345–3, revise paragraph (c)(1) introductory text to read as follows:

§ 178.345–3 Structural integrity.

* * * * *

(c) * * *

(1) *Normal operating loadings.* The following procedure addresses stress in the cargo tank shell resulting from normal operating loadings. The effective stress (the maximum principal stress at any point) must be determined by the following formula:

$$S = 0.5(S_y + S_x) \pm [0.25(S_y - S_x)^2 + S_S^2]^{0.5}$$

Where:

* * * * *

■ 54. In § 178.955, paragraph (h) is redesignated as paragraph (i), paragraph (i) is redesignated as paragraph (j) and a new paragraph (h) is added to read as follows:

§ 178.955 General requirements.

* * * * *

(h) *Approval of equivalent packagings.* A Large Packaging differing from standards in subpart P of this part, or tested using methods other than those specified in this subpart, may be used if approved by the Associate Administrator. The Large Packagings and testing methods must be shown to have an equivalent level of safety.

* * * * *

PART 179—SPECIFICATIONS FOR TANK CARS

■ 55. The authority citation for part 179 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

■ 56. In § 179.13, paragraph (b) is revised to read as follows:

§ 179.13 Tank car capacity and gross weight limitation.

* * * * *

(b) Tank cars containing poisonous-by-inhalation material meeting the applicable authorized tank car specifications listed in § 173.244(a)(2) or (3) or § 173.314(c) or (d) may have a gross weight on rail of up to 286,000 pounds (129,727 kg). Tank cars containing poisonous-by-inhalation material not meeting the specifications listed in § 173.244(a)(2) or (3) or § 173.314(c) or (d) may be loaded to a gross weight on rail of up to 286,000 pounds (129,727 kg) only upon approval of the Associate Administrator for Safety, Federal Railroad Administration (FRA). Any increase in weight above 263,000 pounds may not be used to increase the quantity of the contents of the tank car.

■ 57. In § 179.24, paragraph (a)(2) introductory text is revised to read as follows:

§ 179.24 Stamping.

* * * * *

(a) * * *

(2) Each plate must be stamped, embossed, or otherwise marked by an equally durable method in letters 3/16 inch high with the following information (parenthetical abbreviations may be used, and the AAR form reference is to the applicable provisions of the AAR Specifications for Tank Cars (IBR, see § 171.7 of this subchapter)):

* * * * *

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

■ 58. The authority citation for part 180 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

■ 59. In § 180.209, paragraph (j) is revised to read as follows:

§ 180.209 Requirements for requalification of specification cylinders.

* * * * *

(j) *Cylinder used as a fire extinguisher.* Only a DOT specification cylinder used as a fire extinguisher and meeting the requirements of § 173.309(a) of this subchapter may be requalified in accordance with this paragraph (j).

* * * * *

■ 60. Section 180.401 is revised to read as follows:

§ 180.401 Applicability.

This subpart prescribes requirements, in addition to those contained in parts 107, 171, 172, 173 and 178 of this subchapter, applicable to any person, hazmat employer or hazmat employee responsible for the continuing qualification, maintenance or periodic testing of a cargo tank.

* * * * *

■ 61. In § 180.407, the table and notes in paragraph (c) and paragraphs (d)(3) and (g)(1)(ii) are revised; and paragraph (j) is added to read as follows:

§ 180.407 Requirements for test and inspection of specification cargo tanks.

* * * * *

(c) * * *

COMPLIANCE DATES—INSPECTIONS AND TEST UNDER § 180.407(C)

Test or inspection (cargo tank specification, configuration, and service)	Date by which first test must be completed (see Note 1)	Interval period after first test
External Visual Inspection:		
* * * * * * *		
Internal Visual Inspection:		
All insulated cargo tanks, except MC 330, MC 331, MC 338 (see Note 4)	September 1, 1991	1 year.
All cargo tanks transporting lading corrosive to the tank	September 1, 1991	1 year.
MC 331 cargo tanks less than 3,500 gallons water capacity in dedicated propane service constructed of nonquenched and tempered NQT SA–612 steel (see Note 5).	TBD	10 years.
All other cargo tanks, except MC 338	September 1, 1995	5 years.
Lining Inspection:		
* * * * * * *		
Leakage Test:		
* * * * * * *		
Pressure Test:		
(Hydrostatic or pneumatic) (See Notes 2 and 3).		
All cargo tanks which are insulated with no manhole or insulated and lined, except MC 338	September 1, 1991	1 year.
All cargo tanks designed to be loaded by vacuum with full opening rear heads	September 1, 1992	2 years.
MC 330 and MC 331 cargo tanks in chlorine service	September 1, 1992	2 years.

COMPLIANCE DATES—INSPECTIONS AND TEST UNDER § 180.407(C)—Continued

Test or inspection (cargo tank specification, configuration, and service)	Date by which first test must be completed (see Note 1)	Interval period after first test
MC 331 cargo tanks less than 3,500 gallons water capacity in dedicated propane service constructed of nonquenched and tempered NQT SA–612 steel (See Note 5).	TBD	10 years.
All other cargo tanks	September 1, 1995	5 years.
Thickness Test:		
* * * * * * *		

Note 1: If a cargo tank is subject to an applicable inspection or test requirement under the regulations in effect on December 30, 1990, and the due date (as specified by a requirement in effect on December 30, 1990) for completing the required inspection or test occurs before the compliance date listed in table I, the earlier date applies.

Note 2: Pressure testing is not required for MC 330 or MC 331 cargo tanks in dedicated sodium metal service.

Note 3: Pressure testing is not required for uninsulated lined cargo tanks, with a design pressure MAWP 15 psig or less, which receive an external visual inspection and lining inspection at least once each year.

Note 4: Insulated cargo tanks equipped with manholes or inspection openings may perform either an internal visual inspection in conjunction with the external visual inspection or a hydrostatic or pneumatic pressure-test of the cargo tank.

Note 5: A 10-year inspection interval period also applies to cargo tanks constructed of NQT SA–202 or NQT SA–455 steels provided the materials have full-size equivalent (FSE) Charpy vee notch (CVN) energy test data that demonstrated 75% shear-area ductility at 32 °F with an average of 3 or more samples >15 ft-lb FSE with no sample <10 ft-lb FSE.

* * * * *

(d) * * *

(3) All reclosing pressure relief valves must be externally inspected for any corrosion or damage which might prevent safe operation. All reclosing pressure relief valves on cargo tanks carrying lading corrosive to the valve must be removed from the cargo tank for inspection and testing. Each reclosing pressure relief valve required to be removed and tested must be tested according to the requirements set forth in paragraph (j) of this section.

* * * * *

(g) * * *

(1) * * *

(ii) All self-closing pressure relief valves, including emergency relief vents and normal vents, must be removed from the cargo tank for inspection and testing according to the requirements set forth in paragraph (j) of this section.

* * * * *

(j) *Pressure Vent Bench Test.* When required by this section, pressure relief valves must be tested for proper function as follows:

(1) Each self-closing pressure relief valve must open and reseat to a leaktight condition at the pressures prescribed for the applicable cargo tank specification or at the following pressures:

(i) For MC 306 cargo tanks:

(A) With MC 306 reclosing pressure relief valves: Must open at not less than 3psi and not more than 4.4 psi and must reseat to a leak tight-condition at no less than 2.7 psi.

(B) With reclosing pressure relief valves modified as provided in § 180.405(c) of this part to conform with DOT 406 specifications: According to the pressures set forth for a DOT 406 cargo tank in § 178.346–3 of this subchapter.

(ii) For MC 307 cargo tanks:

(A) With MC 307 reclosing pressure relief valves: Must open at not less than the cargo tank MAWP and not more than 110% of the cargo tank MAWP and must reseat to a leak tight-condition at no less than 90% of the cargo tank MAWP.

(B) With reclosing pressure relief valves modified as provided in § 180.405(c) of this part to conform with DOT 407 specifications: According to the pressures set forth for a DOT 407 cargo tank in § 178.347–4 of this subchapter.

(iii) For MC 312 cargo tanks:

(A) With MC 312 reclosing pressure relief valves: Must open at not less than the cargo tank MAWP and not more than 110% of the cargo tank MAWP and must reseat to a leak tight-condition at no less than 90% of the cargo tank MAWP.

(B) With reclosing pressure relief valves modified as provided in § 180.405(c) of this part to conform with DOT 412 specifications: According to the pressures set forth for a DOT 412 cargo tank in § 178.348–4 of this subchapter.

(iv) For MC 330 or MC 331 cargo tanks: Must open at not less than the required set pressure and not more than 110% of the required set pressure and must reseat to a leak-tight condition at no less than 90% of the required set pressure.

(v) For DOT 400-series cargo tanks: According to the pressures set forth for the applicable cargo tank specification in §§ 178.346–3, 178.347–4, and 178.348–4, respectively, of this subchapter.

(vi) For cargo tanks not specified in this paragraph: Must open at not less than the required set pressure and not more than 110% of the required set pressure and must reseat to a leak-tight condition at no less than 90% of the required set pressure or the pressure prescribed for the applicable cargo tank specification.

(2) Normal vents (1 psig vents) must be tested according to the testing criteria established by the valve manufacturer.

(3) Self-closing pressure relief devices not tested or failing the tests in this paragraph (j)(1) must be repaired or replaced.

§ 180.503 [Amended]

■ 62. In section 180.503, under the definition of Qualification, ''AAR Tank Car Manual'' is removed and ''AAR Specifications for Tank Cars'' is added in its place.

* * * * *

Issued in Washington, DC, on January 7, 2015 under authority delegated in 49 CFR Part 1.97.

Magdy El-Sibaie,

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2015–00265 Filed 1–22–15; 8:45 am]

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Part IV

Department of Veterans Affairs

38 CFR Part 3
Net Worth, Asset Transfers, and Income Exclusions for Needs-Based Benefits; Proposed Rule

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AO73

Net Worth, Asset Transfers, and Income Exclusions for Needs-Based Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations governing entitlement to VA pension to maintain the integrity of the pension program and to implement recent statutory changes. The proposed regulations would establish new requirements pertaining to the evaluation of net worth and asset transfers for pension purposes and would identify those medical expenses that may be deducted from countable income for VA's needs-based benefit programs. The intended effect of these changes is to respond to recent recommendations made by the Government Accountability Office (GAO), to maintain the integrity of VA's needs-based benefit programs, and to clarify and address issues necessary for the consistent adjudication of pension and parents' dependency and indemnity compensation claims. We also propose to implement statutory changes pertaining to certain pension beneficiaries who receive Medicaid-covered nursing home care, as well as a statutory income exclusion for certain disabled veterans and a non-statutory income exclusion pertaining to annuities.

DATES: VA must receive comments on or before March 24, 2015.

ADDRESSES: Written comments may be submitted through *http://www.regulations.gov;* by mail or hand-delivery to: Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AO73, Net Worth, Asset Transfers, and Income Exclusions for Needs-Based Benefits.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Martha Schimpf, Analyst, Pension and Fiduciary Service, Veterans Benefits Administration, Department of Veterans Affairs, 21P1, 810 Vermont Ave. NW., Washington, DC 20420, (202) 632–8863. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department of Veterans Affairs (VA) administers a needs-based benefit, ''pension,'' for wartime veterans and for surviving spouses and children of wartime veterans. The current pension program was established by the Veterans' and Survivors' Pension Improvement Act of 1978, Public Law 95–588, 92 Stat. 2497, and became effective January 1, 1979. The statutory authority for pension is 38 U.S.C. chapter 15, implemented at 38 CFR 3.271 through 3.277. As further explained later in this Notice of Proposed Rulemaking (NPRM), VA proposes to amend 38 CFR part 3 to preserve program integrity because we have received information that, under current regulations, claimants who are not actually in need may qualify for these needs-based benefits. For clarity and consistency, some of the changes we propose would apply to other needs-based benefits as well. Although new pension claimants may qualify for pension only under the current program, VA still pays benefits under two prior pension programs. In addition, new claimants may qualify for parents' dependency and indemnity compensation (parents' DIC) under 38 U.S.C. 1315. Regulations pertaining to all of these older programs are found at current 38 CFR 3.250 through 3.263.

As a preliminary matter, we propose to refer to the current pension benefit as ''pension,'' rather than referring to ''improved pension.'' *See* 38 CFR 3.3(a)(3). When specificity is required in VA regulations to distinguish between veterans and survivors, we propose to refer to ''veterans pension'' and ''survivors pension'' instead of ''disability pension'' and ''death pension.'' We have determined that the term ''disability pension'' is a misnomer because a veteran who has attained age 65 does not need to be disabled to receive pension. *See* 38 U.S.C. 1513. We also note that subchapter II of 38 U.S.C. chapter 15 is titled ''Veterans' Pensions'' and subchapter III is titled ''Pensions to Surviving Spouses and Children.'' The proposed terms would be consistent with the titles used in the statutes.

We would not amend current § 3.3(a)(3) in this rulemaking or amend other references in part 3 to ''improved pension,'' ''disability pension,'' or ''death pension,'' but would implement the terminology changes over time. We also would not amend references to VA's prior pension programs, ''section 306'' and ''old law'' pension.

Executive Summary

1. Legal Authority and Need for Rulemaking

Section 501 of title 38, United States Code, authorizes VA to prescribe regulations necessary for administration of its programs. In the context of VA's needs-based pension benefit, sections 1522 and 1543 of title 38, United States Code, direct VA to deny, reduce, or discontinue the payment of pension when it is reasonable that a claimant consume some portion of his or her net worth for his or her maintenance. Because nothing in sections 1522 and 1543 define when ''it is reasonable'' for a claimant to consume some part of his or her net worth or provide criteria for determining when net worth is excessive, VA may interpret the law by filling these gaps.

Similarly, section 1503(a)(8) of title 38, United States Code, authorizes VA to deduct from a pension claimant's countable income payments for unreimbursed medical expenses but does not define a medical expense for VA purposes. This rulemaking would fill that gap.

This proposed rulemaking would amend regulations governing VA's needs-based pension programs to promote consistency in benefit decisions, reduce opportunities for attorneys and financial advisors to take advantage of pension claimants, and preserve the integrity of the pension program. The revised regulations would promote consistent decisions by establishing a bright-line net worth limit and re-defining net worth as the sum of assets and annual income. The revised regulations would also promote consistent decisions by defining in regulations those unreimbursed medical expenses that VA will deduct from a claimant's annual income for purposes of determining a claimant's annual pension payment.

By establishing in regulations a look-back and penalty period for claimants who transfer assets before applying for pension to create the appearance of economic need where it does not exist, the revised rules would reduce opportunities for financial advisors to provide advice for the restructuring of assets that, in many cases, renders the claimant ineligible for other needs-based benefits. Establishing a look-back

and penalty period for pre-application transfers of assets would also preserve the integrity of the pension program by ensuring that VA only pays the benefit to those with genuine need.

2. Summary of Major Provisions

Proposed § 3.274 would establish a clear net worth limit. VA does not currently have a bona fide net worth limit. The proposed net worth limit is the dollar amount of the maximum community spouse resource allowance established for Medicaid purposes at the time the final rule is published. This amount is currently $119,220, which would be indexed for inflation by adjusting it at the same time and by the same percentage as cost-of-living increases provided to Social Security beneficiaries. The amount of a claimant's net worth would be determined by adding the claimant's annual income to his or her assets. VA would calculate the amount of a claimant's net worth when it receives an original or new pension claim; a request to establish a new dependent; or information that net worth has increased or decreased. Proposed § 3.274 would provide that a claimant's net worth can decrease if the claimant's annual income decreases or if the claimant spends down assets on basic necessities such as food, clothing, shelter, or health care. Proposed § 3.274 would include effective dates for benefit rate adjustments due to net worth.

Proposed § 3.275 would describe how VA calculates assets. It would provide that VA would not consider a claimant's primary residence, including a residential lot area not to exceed 2 acres, as an asset. Proposed § 3.275 would also provide that if the residence is sold, proceeds from the sale are assets unless the proceeds are used to purchase another residence within the calendar year of the sale.

Proposed § 3.276 would provide new requirements pertaining to pre-application asset transfers and net worth evaluations to qualify for VA pension. The changes respond to recommendations that the Government Accountability Office (GAO) made in a May 2012 report, ''Veterans Pension Benefits: Improvements Needed to Ensure Only Qualified Veterans and Survivors Receive Benefits.'' Section 3.276 would establish a presumption, absent clear and convincing evidence showing otherwise, that asset transfers made during the look-back period were made to establish pension entitlement. The changes would establish a 36-month look-back period and establish a penalty period not to exceed 10 years for those who dispose of assets to qualify for pension. The penalty period would be calculated based on the total assets transferred during the look-back period to the extent they would have made net worth excessive. The penalty period would begin the first day of the month that follows the last asset transfer.

Proposed § 3.278 would define and clarify what VA considers to be a deductible medical expense for all of its needs-based benefits. The medical expense amendments will help to ensure that those who process VA needs-based claims process them fairly and consistently and that only needy claimants receive needs-based benefits. It would provide definitions for several terms, including activities of daily living (ADLs) and instrumental activities of daily living (IADLs), and provide that custodial care means regular assistance with two or more activities of ADLs or assistance because a person with a mental disorder is unsafe if left alone due to the mental disorder. It would provide that generally, payments to facilities such as independent living facilities are not medical expenses, nor are payments for assistance with IADLs. However, there would be exceptions for disabled individuals who require health care services or custodial care. The proposed rule would place a limit on the hourly payment rate that VA may deduct for in-home attendants.

Proposed § 3.279 would place in one central location all statutory exclusions from income and assets that apply to all VA needs-based benefits.

Proposed § 3.503 would incorporate in regulations statutory changes regarding Medicaid-covered nursing home care and applicability to surviving child beneficiaries.

3. Assessment of Costs and Benefits

VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

Background Information on Net Worth and Asset Transfers for Pension

Under 38 U.S.C. 1522 and 1543, VA may not pay pension to a veteran or survivor when the corpus of the individual's estate is such that under all the circumstances, including consideration of the individual's income and that of the individual's spouse or dependent children, it is reasonable that the individual consume some part of the estate for his or her maintenance prior to receiving pension. However, Congress has not prescribed criteria for determining whether it would be reasonable to require an individual to consume his or her assets before receiving pension. VA implemented sections 1522 and 1543 in current 38 CFR 3.274 and 3.275. We have determined that the current implementing regulations also do not prescribe effective criteria for determining whether or not net worth bars pension entitlement.

The Veterans Benefits Administration's (VBA) Adjudication Procedures Manual (manual), M21–1MR, which interprets VA regulations and establishes procedures for implementing regulations, instructs adjudicators to deny pension on excessive net worth grounds if ''a claimant's assets are sufficiently large that the claimant could live off these assets for a reasonable period of time.'' M21–1MR, Part V, Subpart iii, Chapter 1, Section J.67.g. The manual also provides that ''[p]ension entitlement is based on need and that need does not exist if a claimant's estate is of such size that he/she could use it for living expenses.'' *Id.* at J.67.h. However, neither current regulations nor the manual defines ''reasonable period of time'' or establish definitive pension net worth limits. Accordingly, GAO concluded in its May 2012 report that VA adjudicators ''lack[ ] specific guidance on how to determine whether or not a claimant's financial resources are sufficient to meet their basic needs without the pension benefit.'' U.S. Government Accountability Office, GAO–12–540, Veterans' Pension Benefits: Improvements Needed to Ensure Only Qualified Veterans and Survivors Receive Benefits 14 (2012).

The GAO report also identified over 200 organizations that market services, primarily financial planning services, to assist veterans and survivors with transferring assets in order to reduce net worth and qualify for VA pension. As GAO noted, ''[c]urrent federal law allows veterans to transfer significant assets'' before applying for pension and still qualify for pension, which is inconsistent with the purpose of the program.'' GAO–12–540, at 22. Currently, a pension claimant may lawfully transfer significant assets before applying for pension. Current § 3.276(b) provides that a pension claimant's gift of property to a relative residing in the same household is not recognized as reducing the claimant's corpus of estate and a pension claimant's sale of property to such a relative is not recognized as reducing

the claimant's corpus of estate if the purchase price or other consideration for the sale is so low as to equate to a gift. However, there is currently no objective standard for determining whether the purchase price or other consideration for the sale is so low as to equate to a gift. Current § 3.276 also provides that a pension claimant's gift of property to someone other than a relative living in the claimant's household will not be recognized as reducing the claimant's corpus of estate unless it is clear that the claimant has relinquished ''all rights of ownership, including the right of control'' over the property. However, current § 3.276 does not prohibit a claimant from making a gift of property to an individual not living in the claimant's household immediately before applying for pension, so currently such a gift would reduce the claimant's corpus of estate. Also, the regulation does not define the terms ''ownership'' and ''control.''

Sections 1522 and 1543 require VA to deny or discontinue pension when it is reasonable to require the individual to consume some portion of his or her net worth for personal maintenance. The legislative history of the current pension program reveals Congress' intent that ''a needs-based system . . . apply only to those veterans who are, in fact, in need.'' H.R. Rep. No. 95–1225, at 33 (1978), *reprinted in* 1978 U.S.C.C.A.N. 5583, 5614. We interpret the statutory requirement to consume excessive net worth prior to receiving needs-based pension as precluding pension entitlement based upon transferring assets that a claimant or beneficiary could use for his or her maintenance. Congress did not intend that a claimant who has sufficient assets for self-support could preserve those assets for his or her heirs or transfer them as gifts and still qualify for pension at the expense of taxpayers. In our view, it would be an unreasonable interpretation of current law to conclude that Congress intended that veterans and survivors could use the pension program as an estate planning tool, under which they may preserve or gift assets and shift responsibility for their support to the Government. Accordingly, we propose to amend VA's net worth and asset transfer regulations to ensure program integrity and preserve the program for wartime veterans and their survivors who actually need Government support.

Proposed Net Worth and Asset Transfer Amendments

Current 38 CFR 3.274, 3.275, and 3.276 use the terms ''net worth'' and ''corpus of the estate'' to describe the assets available to a claimant or beneficiary that could bar pension entitlement if sufficiently great. In particular, current § 3.275(b) gives the same definition to both terms. We propose to use the term ''net worth'' in proposed §§ 3.274, 3.275, and 3.276 because it is the more commonly understood term. In addition, as explained in more detail below, net worth would be defined as the sum of a claimant's or beneficiary's assets and annual income.

Section 3.274—Net Worth and VA Pension

We propose to revise § 3.274 to establish new policies pertaining to pension and net worth. As we explained above, sections 1522 and 1543 require VA to deny or discontinue pension when, under all the circumstances, ''it is reasonable'' that the claimant or beneficiary use some portion of the applicable net worth for his or her maintenance. VA implemented this statutory requirement in current § 3.274, which essentially tracks the language of the statutes and prescribes denial or discontinuance of pension when it is reasonable that the individual consume ''some part'' of his or her net worth for personal maintenance. Current § 3.274(a) pertains to denial or discontinuance of veterans' pension entitlement based on excessive net worth, and § 3.274(c) pertains to denial or discontinuance of surviving spouses' pension entitlement based on excessive net worth. Current paragraphs (b) and (d) prescribe when VA must deny or discontinue increased pension paid to a veteran or surviving spouse, respectively, on account of a child. Current paragraph (e) pertains to denial or discontinuance of surviving children's pension entitlement based on excessive net worth.

Unlike the regulatory framework governing other Federal needs-based programs, such as the Social Security Administration's Supplemental Security Income (SSI) program, *see e.g.,* 20 CFR 416.1205, which prescribes a $2,000 limit on resources (*i.e.,* assets) for unmarried individuals and a $3,000 limit for married individuals, VA's net worth regulations do not prescribe clear limits for pension entitlement. Rather, for determining whether some part of a claimant's net worth should be consumed for his or her maintenance, current § 3.275(d) requires VA to consider the claimant's income with (1) the liquidity of the property, (2) the life expectancy of the claimant, (3) the number of dependent family members, and (4) the potential rate of depletion of available assets. Absent from current §§ 3.274 and 3.275(d) are clear rules for evaluating these factors and determining whether a claimant's assets and income are sufficient to meet his or her needs without pension. As a result, GAO concluded that VA adjudicators had to use their own discretion, leading to inconsistent decisions for similarly situated claimants. *See* GAO–12–540, at 14–15.

In addition to producing inconsistent decisions, current rules require development of additional information not solicited in the initial application for compensation and pension, VA Form 21–526, or the application for survivors' benefits, VA Form 21P–534. For example, to determine the potential rate of depletion of a claimant's net worth, VA must gather information about a claimant's living expenses and reconcile those expenses with the claimant's income over an unspecified period of time. This development necessarily adds time and complexity to the adjudication of these needs-based benefits, potentially creating greater financial hardship for claimants as they wait for VA to decide their claims.

As stated above, the statutory authorities for net worth, 38 U.S.C. 1522 and 1543, require VA to consider a veteran's, surviving spouse's, or child's annual income when determining whether excessive net worth bars pension entitlement. Current regulations governing VA's assessment of net worth, 38 CFR 3.275(d), require VA, in making net worth determinations, to consider ''the amount of the claimant's income,'' together with other considerations. In order to account for the statutory annual income component of net worth determinations, we propose a new net worth definition which VA would calculate by adding assets and annual income.

Proposed § 3.274(a) would establish a clear net worth limit for pension entitlement. Establishing a clear limit would promote uniformity and consistency in pension entitlement determinations consistent with the purpose of the pension program. Additionally, under a clear bright-line limit, it would no longer be necessary for claim adjudicators to complete lengthy, subjective net-worth determinations, which would free up limited resources for other claim-related activities, specifically timely delivery of benefits to individuals who immediately need Government support.

The net worth limit for pension entitlement that we propose to use is the standard maximum community spouse resource allowance (CSRA) prescribed by Congress for Medicaid, another Federal needs-based benefit program, which we consider sufficiently

analogous to VA's pension program to use the Congressional resource limit on Medicaid entitlement in VA's program. For the Medicaid program, Congress has established a standard maximum resource amount that the ''community spouse'' of an institutionalized individual may be allowed to retain without the institutionalized spouse losing entitlement to Medicaid because of excessive resources. Congress established this standard maximum amount, referred to as the maximum CSRA, at $60,000 in 1989 and indexed that amount for inflation by increasing it by the same percentage as the percentage increase in the average consumer price index for all urban consumers. *See* 42 U.S.C. 1396r–5(f) and (g). For calendar-year 2014, the maximum CSRA is $117,240. *See http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Eligibility/Downloads/Spousal-Impoverishment-2014.pdf.* As described in further detail below, we would use the dollar amount of the maximum CSRA that is in effect at the effective date of the final rule after publication in the **Federal Register** and have inserted a temporary placeholder in the proposed rule.

Congress' intent in establishing the CSRA was to prevent the impoverishment of the non-institutionalized spouse of a Medicaid-covered individual. VA's intent in proposing to adopt the maximum CSRA as the net worth limit for pension entitlement is similar in that we seek to prevent the impoverishment of wartime veterans and their dependents or survivors as a prerequisite for obtaining VA pension. We recognize that a veteran or a veteran's surviving spouse may have built up a modest amount of savings prior to applying for pension and that there might be a need to retain a reasonable portion of these assets to respond to unforeseen events, such as medical conditions requiring care in an assisted living facility or nursing home.

The current cost of nursing home and assisted living care supports our proposal to adopt the maximum CSRA. A recent survey found that the average annual cost of a semi-private room in a nursing home was over $81,000, and the cost of a private room was over $90,000. MetLife Mature Market Institute, ''Market Survey of Long-Term Care Costs'' 4 (2012). A 2010 survey also found that the average annual cost of a private room in a nursing home was over $90,000. Prudential Research Report, ''Long-Term Care Cost Study'' 15 (2010). One survey found that the average cost of a residence in an assisted living facility was $3,550 monthly or $42,600 annually. MetLife Mature Market Institute, ''Market Survey of Long-Term Care Costs'' 4 (2012). The cost of such facilities would quickly deplete the savings permitted by our proposed use of the maximum CSRA even with the supplemental income provided by VA's pension program, which for 2014 is established at a maximum of $25,022 annually for a veteran with a spouse and $13,563 annually for a surviving spouse. Given the high cost of such care and the fact that many veterans or survivors may have to pay for the care, we have determined that it would be reasonable to establish the maximum CSRA as the net worth limit for pension entitlement. This limit would correspond roughly to the cost of residential care in a nursing home or assisted living facility for 1 to 2 years.

Proposed § 3.274(a) includes several placeholders that describe what the final rule would contain if implemented. The net worth limit would be the dollar amount of the current maximum CSRA as of the effective date of the final rule, to be increased by the same percentage as the increase in Social Security benefits whenever there is a cost-of-living increase in benefit amounts payable under the Social Security Act. VA would publish the current limit on its Web site. The proposed regulation text also does not include the Web site address because VA has not yet determined the address at which the net worth limit would be published. We have inserted ''location to be determined'' in the proposed regulation text as a placeholder and would provide the Web site address, current net worth limit, and effective date in the final rule.

Under proposed § 3.274(b), VA would deny or discontinue pension if a claimant's or beneficiary's net worth exceeds the net worth limit. It would not be necessary to retain the reasonableness language in the current regulation under this bright-line limit. We have determined that it would be reasonable and consistent with the purpose of the pension program to fairly and consistently assess net worth and to make pension entitlement determinations using standardized criteria. Proposed § 3.274(b)(1) would define a claimant's or beneficiary's net worth as the sum of his or her assets and annual income. We propose this new definition because under VA's net worth statutes, 38 U.S.C. 1522 and 1543, VA must consider a claimant's or child's annual income when determining if net worth bars pension entitlement. To account for this statutory requirement, net worth for VA pension purposes would include both an asset component and an income component. This would be reflected for veterans, surviving spouses, and surviving children in proposed § 3.274(b)(1) and for dependent children in proposed § 3.274(d)(2).

Proposed § 3.274(b)(2) would provide that VA calculates a claimant's or beneficiary's assets under this section and § 3.275; and paragraph (b)(3) would provide cross-references to make it clear that ''annual income'' for net worth purposes is the same ''annual income'' used for calculating a pension entitlement rate for a claimant or a beneficiary. Proposed paragraph (b)(4) gives an example of a net worth calculation.

Proposed § 3.274(c) generally restates provisions in current § 3.274(a), (c), and (e) and explains whose assets VA includes as a claimant's or beneficiary's assets. A veteran's assets include the assets of the veteran as well as the assets of the veteran's spouse, if the veteran has a spouse. *See* 38 U.S.C. 1522(a). A surviving child's assets include those of his or her custodian unless the custodian is an institution. We also propose to refer to the provisions of current 38 CFR 3.57(d) and clarify that, when a surviving child is in the joint custody of a natural or adoptive parent and a stepparent, the surviving child's assets also include the assets of the stepparent. This provision is consistent with 38 U.S.C. 1543(b), pertaining to a surviving child's net worth.

Proposed § 3.274(d) would clarify paragraphs (b) and (d) of current § 3.274 prescribing how a child's net worth affects a veteran's or surviving spouse's pension entitlement. The current paragraphs restate statutory provisions in providing that ''increased pension'' payable to a veteran or a surviving spouse on account of a child is barred if it is reasonable that some part of the child's net worth be consumed for the child's maintenance. *See* 38 U.S.C. 1522(b) and 1543(a)(2). In this context, VA has interpreted the statutory phrase ''increased pension'' to refer to the statutory maximum pension rates rather than the pension entitlement rate. The pension entitlement rate is the pension amount that a claimant or beneficiary is entitled to receive after VA subtracts the claimant's or beneficiary's income from the statutory maximum rate. If a child has sufficient income, a veteran's or surviving spouse's entitlement rate can decrease rather than increase when the child is established as a dependent. Sections 1522(b) and 1543(a)(2) refer to the increased pension payable under the applicable subsections of sections 1521 and 1542 respectively, which provide

the maximum pension rates. Sections 38 U.S.C. 1522(b) and 1543(a)(2) also explicitly provide that a child with excessive net worth ''shall not be considered as the veteran's [or surviving spouse's] child for [pension purposes]. Accordingly, proposed § 3.274(d) states that VA would not consider a child to be a veteran's or surviving spouse's dependent for pension purposes when the child's net worth exceeds the net worth limit. This would be true even if removing the child as a dependent results in an increased pension entitlement rate for the veteran or surviving spouse.

Proposed § 3.274(d)(1) would clarify two issues pertaining to dependent children. Proposed paragraph (d)(1)(i) would provide that a ''dependent child'' refers, for the purposes of this section, to a child for whom a veteran or a surviving spouse is entitled to an increased maximum annual pension rate. The maximum annual pension rates are the annual pension rates set forth in 38 U.S.C. 1521 for veterans and 38 U.S.C. 1541 for surviving spouses. These maximum rates are then reduced by countable annual income, divided by 12, and rounded down to the nearest whole number to calculate the monthly pension entitlement rate. The maximum annual pension rate is the annual amount to which an eligible claimant is entitled to receive if his or her annual income is zero.

Technically, surviving spouses do not have dependent children for VA purposes. For VA purposes, any child must be a child of the veteran. A veteran's child who is not in the custody of a surviving spouse, as custody is defined at § 3.57(d), is a surviving child who is eligible for pension in his or her own right. However, referring to a veteran's child in the custody of a surviving spouse as a ''dependent child'' makes the necessarily complex net worth regulations somewhat easier to understand. There is statutory and regulatory precedent for referring to a child in this manner. Under 38 U.S.C. 1506(1) and 38 CFR 3.277(a), a ''dependent child'' is a child for whom a person is receiving or entitled to receive increased pension.

Proposed § 3.274(d)(1)(ii) would provide that a ''potential dependent child'' refers to a child who is excluded from a veteran's or surviving spouse's pension award solely or partly because the child's net worth exceeds the limit and provides that references to a ''dependent child'' also include such potential dependent children.

Similar to proposed paragraphs (b)(1) through (b)(3) for claimants and beneficiaries, paragraphs (d)(2) through (d)(4) of proposed § 3.274 set forth the meaning of net worth for dependent children, and describe how VA calculates a dependent child's assets and annual income to determine the amount of the child's net worth. The applicable net worth statutes, 38 U.S.C. 1522(b) and 1543(a)(2), provide that a dependent child's estate includes only the estate of the child, but VA must consider the income of the child, the veteran or surviving spouse, and other dependents when determining if the child's net worth is excessive. Therefore, § 3.274(d)(2) would provide that a dependent child's assets include the child's assets only, and § 3.274(d)(3) would provide that VA will calculate a dependent child's annual income under § 3.275 and will include the annual income of the child as well as the annual income of the veteran or surviving spouse that would be included if VA were calculating a pension entitlement rate for the veteran or the surviving spouse. *See* 38 U.S.C. 1522(b) and 1543(a)(2).

Nothing in current § 3.274 or any other current regulation prescribes when VA must calculate net worth for purposes of determining initial, continued, or increased pension entitlement. Accordingly, in § 3.274(e), we propose to prescribe that VA would calculate net worth when VA receives: (1) An original pension claim, (2) a new pension claim after a period of non-entitlement, (3) a request to establish a new dependent, or (4) information that a veteran's, surviving spouse's, or child's net worth has increased or decreased.

Information about a claimant's net worth may come from the claimant him or herself or from VA matching programs with the Internal Revenue Service (IRS) or the Social Security Administration (SSA). Such matching programs are authorized under 38 U.S.C. 5317. VA would obtain information from the IRS and the SSA before paying pension and when re-calculating net worth for pension under § 3.274(e). We intend that proposed paragraph (e) would provide notice to VA adjudicators, claimants, and beneficiaries regarding the types of claims or benefit adjustments that require a net worth calculation. As explained above in the information pertaining to § 3.274(b)(1), net worth would be defined as the sum of a claimant's assets and his or her annual income. Proposed paragraph (e) would also clarify that generally, VA calculates net worth only when the claimant meets other factors necessary for pension entitlement. Proposed § 3.274(e) would clarify for readers that if, for example, a veteran is not entitled to pension because he or she lacks wartime service or because his or her annual income exceeds the maximum annual pension rate, VA will not calculate net worth. However, paragraph (e)(3) would provide an exception. If the evidence of record shows that net worth exceeds the net worth limit, VA may decide the pension claim before determining if the claimant meets other pension entitlement factors. In such a case, VA would notify the claimant of the entitlement factors not established. This prevents VA from developing a case when the evidence clearly shows that a claimant is not entitled to the benefit.

Nothing in current § 3.274 or any other VA regulation addresses the issue of whether claimants denied pension due to excessive net worth may lawfully decrease their net worth and qualify for pension. To remedy this omission, proposed § 3.274(f) would discuss the three ways in which claimants could decrease their net worth to lawfully qualify for pension. Under proposed § 3.274(f)(1), claimants could make certain expenditures that would decrease their assets and thereby establish entitlement, continue entitlement, or increase entitlement to pension. Proposed § 3.274(f)(1) would limit authorized expenditures to expenditures for basic living expenses or for education or vocational rehabilitation. Such a limitation is consistent with the requirement in sections 1522 and 1543 that the individual consume some part of net worth for his or her maintenance when net worth is excessive. Given the purpose of the needs-based program established by Congress, we interpret ''maintenance'' to mean basic necessities such as food, clothing, shelter, or health care. Because education or vocational rehabilitation expenses can lead to decreased reliance on pension, we believe that such expenses should also be considered part of an individual's maintenance for this purpose.

Proposed § 3.274(f)(2) would simply cross-reference the regulations that apply to pension annual income calculations. By law, VA must consider annual income in determining net worth. A decrease in annual income is the second method by which net worth can decrease. In proposed § 3.274(f)(3), we address how VA will treat payments, *e.g.,* unreimbursed medical expenses, which can decrease either annual income or assets. VA would not consider the same payments to decrease both the annual income and the asset components of net worth. Proposed

§ 3.274(f)(3) provides that VA will first apply the payment amounts to decrease annual income. We believe this is fair and reasonable because it is the amount of the annual income that determines the pension entitlement rate. If there are remaining deductible amounts and net worth still exceeds the limit, VA will use those amounts to reduce the asset component of net worth. We would provide two examples of this provision.

Paragraphs (g), (h), and (i) of proposed § 3.274 are proposed net worth effective-date provisions. Proposed paragraph (g) is based on current § 3.660(d) and would prescribe the effective date of entitlement or increased entitlement after VA has denied, reduced, or discontinued a pension award based on excessive net worth. Proposed paragraph (g)(1) would describe the scope of the rule. Consistent with current § 3.660(d), proposed paragraph (g)(2) would prescribe the effective date of entitlement or increased entitlement as the day net worth ceases to exceed the limit as long as, before the pension claim has become finally adjudicated, the claimant or beneficiary submits a certified statement that net worth has decreased. ''Finally adjudicated'' is defined in 38 CFR 3.160(d), and for net worth decisions, means that the 1-year period for beginning the appeal process by filing a Notice of Disagreement (NOD) has expired or that the claim has been appealed and decided. If VA does not receive the certified statement within one year after VA's decision notice to the claimant of the denial, reduction, or discontinuance (and does not appeal), the effective date is the date VA receives a new pension claim. VA always has the right, under 38 CFR 3.277(a), to require that a claimant or beneficiary submit additional evidence to support entitlement or continuing entitlement as the situation warrants and proposed § 3.274(g)(2) would so provide.

Proposed § 3.274(h) pertains to reduction or discontinuance of a beneficiary's pension entitlement based on excessive net worth. Proposed paragraph (h)(1) would restate the statutory end-of-year effective date for reducing or discontinuing a pension award because of excessive net worth. *See* 38 U.S.C. 5112(b)(4)(B). The first day of non-payment or reduced rate would be the first day of the year that follows the net worth change. This is consistent with longstanding VA implementation of reduction and discontinuance effective dates. *See* 38 CFR 3.500. Proposed paragraph (h)(2) would clarify that if net worth decreases to or below the limit before the effective date, VA will not reduce or discontinue the pension award on the basis of excessive net worth. Proposed § 3.274(h)(2) would provide that VA must receive the beneficiary's certified statement that net worth has decreased and must receive it before VA has reduced or discontinued the pension award. (If VA does, in fact, reduce or discontinue the pension award, then proposed paragraph (g)(2) would apply and the claimant would be able to submit evidence of continuing entitlement for VA to retroactively resume the award.)

Proposed § 3.274(i) prescribes additional effective dates that pertain to changes in a dependent child's net worth. As discussed above in the information pertaining to § 3.274(d), a child would not be considered a veteran's or surviving spouse's dependent child if the child's net worth exceeds the net worth limit. In addition, we discussed how a veteran's or surviving spouse's pension entitlement may increase or decrease when a child is established as a dependent based on the amount of annual income the child may have. Proposed § 3.274(i)(1) would refer readers to paragraphs (g) and (h) for the intuitive situation in which establishing a dependent child (because the child's net worth has decreased) results in an increased pension entitlement rate for the veteran or surviving spouse.

Proposed § 3.274(i)(2) would address the situation in which establishing a dependent child results in a decreased pension entitlement rate for the veteran or surviving spouse. Paragraph (i)(2)(i) would establish an end-of-year effective date for a decreased pension entitlement rate when an increase in a dependent child's net worth results in removing the child from the award when the child's net worth is excessive. This end-of-year effective date is the same regardless of whether establishing or not establishing the dependent child due to a net worth change results in a decreased pension entitlement rate for the veteran or surviving spouse. Under 38 U.S.C. 5112(b), the ''effective date of a reduction or discontinuance of . . . pension . . . by reason of change in [net worth] shall be the last day of the calendar year in which the *change* occurred.'' Emphasis added.

Proposed paragraph (i)(2)(ii) would establish the effective date for an increased entitlement rate based on removing the child as a dependent as the date VA receives a claim for an increased pension rate based on the dependent child's net worth increase. This is consistent with 38 CFR 3.660(c), effective March 24, 2015. See 79 FR 57697, September 25, 2014.

The explanatory derivation table below regarding net worth effective dates is provided as an aid for those reading this NPRM.

TABLE 1—NET WORTH (NW) EFFECTIVE-DATE PROVISIONS DERIVATIONS

Proposed § 3.274	Derived from	Situation	Effective date	Change from current rule
3.274(g)	3.660(d)	NW has decreased after VA denial, reduction, or discontinuance.	Entitlement from date of NW increase if information received timely.	No date change. Addition of certified statement requirement.
3.274(h)	3.660(a)(2)	NW has increased and reduction or discontinuance necessary.	End-of-the-year that NW increases.	No date change. Addition of certified statement requirement when NW decreases before the effective date.
3.274(i)(1)	New Cross-Reference.			
3.274(i)(2)(1)	3.660(d)	Dependent child's NW has decreased and adding the child results in a rate decrease for the veteran or surviving spouse.	End-of-the-year that NW decreases.	No date change.

TABLE 1—NET WORTH (NW) EFFECTIVE-DATE PROVISIONS DERIVATIONS—Continued

Proposed § 3.274	Derived from	Situation	Effective date	Change from current rule
3.274(i)(2)(2)	3.660(c)	Dependent child's NW has increased and removing the child results in a rate increase for the veteran or surviving spouse.	Date of receipt of claim for increased rate based on child's NW increase.	No date change. Claim required for increased rate.

We would remove from § 3.660(d), which pertains to net worth effective dates, the reference to § 3.274, but the reference to § 3.263 would remain intact. With the exception of removing or redesignating certain paragraphs as explained below in the discussion regarding conforming amendments, we propose no changes to § 3.263, which applies to net worth decisions for section 306 pension and to parental dependency for veterans disability compensation purposes under 38 U.S.C. 1115.

Finally, we would update the authority citation at the end of § 3.274 to include the effective-date statutes, 38 U.S.C. 5110 and 5112, along with the net worth statutes, 38 U.S.C. 1522 and 1543.

Section 3.275—How VA Determines the Asset Amount for Pension Net Worth Determinations

Although sections 1522 and 1541 require VA to deny or discontinue pension or increased pension when a veteran's, surviving spouse's, or child's net worth is excessive, nothing in these statutes prescribes how VA should calculate net worth. VA implemented the statutory net worth provisions in current 38 CFR 3.275 by establishing net worth evaluation criteria. We propose to amend § 3.275 consistent with proposed § 3.274.

As noted in the above discussion of proposed § 3.274, we propose to establish the maximum CSRA as the net worth limit for pension entitlement. Net worth over that limit would not meet the reasonableness standard prescribed by Congress in sections 1522 and 1543. VA would determine the amount of the asset component of a claimant's net worth using objective criteria and compare the net worth to a published limit in order to determine whether a claimant's net worth permits an award or increased award of pension. This objective standard would promote fair and consistent decision-making and would allow VA to process claims more efficiently for individuals who immediately need supplemental income. Accordingly, the criteria in current § 3.275(d) for subjectively evaluating net worth would not be applicable under the proposed rule. Proposed § 3.275 would define the term ''assets'' instead of ''net worth'' or ''corpus of estate.'' As we described above in the information pertaining to § 3.274(b), net worth would consist of both an asset component and an annual income component to account for the statutory provision that VA must consider annual income in its net worth determinations. Because we are proposing a bright line net worth limit, net worth would be the sum of assets and income, and the term ''assets'' would be used in many locations where ''net worth'' is currently used because net worth does not currently have an income component *per se.* Proposed § 3.275 would also provide exclusions from assets as described in greater detail below. We would not include the net worth evaluation criteria from current paragraph (d) because net worth would no longer be evaluated using those criteria; rather, there would be a bright line net worth limit.

Under current § 3.275(e), VA excludes from the net worth (*i.e.,* assets) of a child reasonable amounts for actual or prospective educational or vocational expenses until the child attains age 23. There is no statutory requirement for this exclusion and we believe that the monetary amount of the net worth limit we proposed in § 3.275(a) is sufficient to account for vocational or educational expenses until age 23. Public high school education in the United States is free. The United States Department of Education College Affordability and Transparency Center reports average net prices of college attendance for 2011–2012. Average net price is for full-time beginning undergraduate students who received grant or scholarship aid from federal, state or local governments, or the institution. The following college prices are reported per semester for 4-year colleges: Public (*e.g.,* State): $11,582; Private not-for-profit: $20,247; and Private for profit: $21,742. Therefore, we believe that the maximum CSRA of $117,240 (2014) is also an appropriate limit for children, and proposed § 3.275 does not include the language of § 3.275(e).

Proposed § 3.275(a)(1) would define ''assets'' and restate most of current § 3.275(a), (b), and (c), although we would use the term ''assets.'' Proposed paragraph (a)(1) would also use the term ''fair market value'' rather than the term ''market value'' that current paragraph (a)(1) uses. We would include a cross-reference to proposed § 3.276(a)(4), which would define ''fair market value.'' In proposed paragraph (a)(2), we propose to define ''claimant'' in order to simplify §§ 3.275 and 3.276. Proposed paragraph (a)(2)(i) would provide that, with one exception, ''claimant'' would mean a pension beneficiary, a dependent spouse, or a dependent or potential dependent child as described in proposed § 3.274(d), as well as a veteran, surviving spouse, or surviving child pension applicant for the purposes of §§ 3.275 and 3.276. The exception, at proposed (a)(2)(ii), would define claimant as ''a pension beneficiary or applicant who is a veteran, a surviving spouse, or a surviving child.'' This definition would apply to paragraph (b)(1), which would regulate the manner in which VA treats the exclusion of a residence. This exception is necessary to make clear that VA does not exclude more than one residence per family unit. These definitions would simplify §§ 3.275 and 3.276 because the proposed net worth and asset transfer provisions would apply to each of these individuals and one term would describe all affected individuals.

Proposed paragraph (a)(3) would define ''residential lot area'' to state and clarify VA's policy with respect to lot size. Current § 3.275(b) provides that VA does not include a claimant's ''dwelling . . . including a reasonable lot area'' in determining the amount of the claimant's net worth. Proposed § 3.275(a)(3) would define ''residential lot area'' as the lot on which a residence sits that is similar in size to other residential lots in the vicinity of the residence, but not to exceed 2 acres (87,120 square feet), unless the additional acreage is not marketable. The additional property might not be marketable if, for example, the property is only slightly more than 2 acres, the additional property is not accessible, or there are zoning limitations that prevent selling the additional property.

The United States Census Bureau reports that in 2010, the average lot size for new single-family homes sold was 17,590 square feet. In metropolitan areas, it was 16,585 square feet and outside metropolitan areas, it was 27,363 square feet. We propose to establish a 2-acre residential lot area limit to avoid disadvantaging veterans and survivors who may have purchased a residence with an above-average lot size long before they developed a need for the support provided by the pension program. This limit would support our policy choice, under which we exclude a claimant's primary residence from assets, while at the same time placing a reasonable limit on excluded property for purposes of preserving the pension program for Veterans and survivors who have an actual need.

Proposed paragraph (b) would prescribe exclusions from assets. In proposed paragraph (b)(1), we would incorporate other matters of longstanding VA policy with respect to a claimant's residence, as explained and justified below. Under current § 3.275(b), VA excludes a claimant's ''dwelling'' from net worth. We propose to refer to a claimant's ''primary residence'' rather than to a ''dwelling'' to clarify that VA excludes only the value of the single residence, along with the residential lot area, where the claimant has established a permanent place of residence, not the value of other properties where the claimant may occasionally reside. The proposed rule clarifies that a claimant can have only one primary residence at any given time. The term ''primary residence'' is well understood because a primary residence is considered a legal residence for the purposes of income tax and acquiring a mortgage. We also propose to state that, if the residence is sold, VA would not include the proceeds from the property sale as an asset to the extent the claimant uses the proceeds to purchase another residence within the same calendar year. This provision would be consistent with the effective-date rule in 38 U.S.C. 5112(b)(4)(B), which provides that a reduction or discontinuance of pension based upon a change in net worth is effective the last day of the calendar year in which the change occurred. However, to the extent the sale price exceeds the purchase price of the latter residence, the excess amount would be included as an asset.

Consistent with proposed § 3.275(a)(1), proposed § 3.275(b)(1)(i) would state that VA will not subtract from a claimant's assets the amount of any mortgages or encumbrances on a claimant's primary residence. Because VA would not include a claimant's primary residence as an asset and mortgages and encumbrances would be property-specific, VA would not subtract mortgages or encumbrances on the primary residence from other assets.

Current § 3.275(b) does not address whether VA excludes a claimant's residence if the claimant is receiving care in a nursing home or other residential facility or receiving care in the home of a family member. The legislative history of Public Law 95–588, which created the current pension program, indicates that Congress was aware that VA does not include a beneficiary's residence as part of net worth and did not intend to change that policy. *See* 123 Cong. Rec. S19754, (daily ed. Dec. 15, 1977) (statement of Sen. Cranston). However, the legislative history does not address the point at which VA should discontinue the primary residence exclusion. Accordingly, at proposed paragraph (b)(1)(ii), we propose to state that VA would exclude a claimant's primary residence as an asset regardless of whether the claimant is residing in a nursing home, medical foster home, or an assisted living or similar residential facility that provides custodial care, or resides with a family member for custodial care. The terms ''nursing home,'' ''medical foster home,'' ''assisted living, adult day care, or similar facility,'' and ''custodial care'' would be defined in proposed § 3.278(b) with a cross reference in proposed § 3.275(b)(1)(ii) to that regulation. Because there is generally a possibility that an individual may return to his or her primary residence, and VA supports such a return, we propose to prescribe clearly that a claimant's primary residence is not an asset for VA pension purposes. Consistent with our current policy, we would also specify that any rental income from the primary residence would be countable annual income under § 3.271(d) for pension entitlement purposes (and thus would be part of net worth under proposed § 3.274). This is consistent with the general rule in 38 U.S.C. 1503(a) that ''all payments of any kind or from any source . . . shall be included'' in determining annual income except as specifically excluded.

Proposed paragraphs (b)(3) through (b)(6) would list four types of payments that are excluded from assets for VA's net worth calculations for pension. These four exclusions apply to current pension but do not apply to prior pension programs. Proposed paragraph (b)(3) would list payments under section 6 of the Radiation Exposure Compensation Act of 1990 and is taken from current § 3.275(h). Proposed paragraph (b)(4) would list payments made under section 103(c) of the Ricky Ray Hemophilia Relief Fund Act of 1998, which are excluded under 42 U.S.C. 300c–22(note). Proposed paragraph (b)(5) would list payments made under the Energy Employees Occupational Illness Compensation Program, which are excluded under 42 U.S.C. 7385e(2). Proposed paragraph (b)(6) would list payments made to certain eligible Aleuts under 50 U.S.C. App. 1989c–5. These payments are excluded under 50 U.S.C. App. 1989c–5(d)(2).

Below in this NPRM, we propose a new § 3.279 that would list payments that are statutorily excluded in determining entitlement to all needs-based benefits that VA administers. The payments listed in paragraphs (f), (g), (i), and (j), of current § 3.275 would be listed in proposed § 3.279; therefore, they would not be included in proposed § 3.275(b). Proposed § 3.275(b)(7) cross-references proposed § 3.279 and excludes from net worth other applicable payments listed there. The payments described in current § 3.275(e) are already accounted for in setting the net worth limit (see discussion of the CSRA above). As explained and justified later in this NPRM, the exclusion described in paragraph (k) of current § 3.275 would not be included in these regulations.

Waived Income Provision Relocation and Revision

We propose to move the provision of current 38 CFR 3.276(a), which pertains to waived income, to a new paragraph (i) in 38 CFR 3.271. We believe that § 3.271 would be a more appropriate location for a provision that applies to income counting than would § 3.276. Proposed § 3.276 pertains to asset transfers and penalty periods with respect to net worth calculations. Section 1503(a) of title 38, United States Code, requires VA to consider as income ''all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived . . .).'' This provision of section 1503(a) became effective July 1, 1960, when Public Law 86–211 established what we now term ''section 306'' pension. The previous pension program, which we now term ''old-law'' pension, was an ''all-or-nothing'' benefit in which a small increase in income could result in the total loss of VA pension. Therefore, beneficiaries often wished to waive receipt of other income so as not to lose pension entitlement, and VA regulations pertaining to old-law pension permit this. *See* 38 CFR 3.262(h). However,

Public Law 86–211 required VA to count waived income for pension purposes, thus preventing beneficiaries from ''creat[ing] their own need so as to qualify for the benefit.'' *See* S. Rep. No. 86–666, at 4 (1959), *as reprinted* in 1959 U.S.C.C.A.N. 2190, 2193. This provision was carried forward to the current pension program in section 1503(a), and VA implemented it in current 38 CFR 3.276(a), which we now propose to move to proposed 38 CFR 3.271(i). Proposed § 3.271(i) essentially restates current § 3.276(a) in that it also provides that VA would count waived income. We would also add a reference to proposed § 3.279, which would list statutory exclusions from income. Additionally, longstanding VA policy provides a qualified exception to the general rule regarding waiver, such that if an individual withdraws a Social Security claim after a finding of entitlement to Social Security benefits, so as to maintain eligibility for an unreduced Social Security benefit on attainment of a certain age, this withdrawal is not considered to be a waiver. In this situation, the individual's withdrawal of the claim is more accurately and fairly characterized under section 1503(a) as a deferral of income rather than a waiver. Accordingly, we propose to clearly state this policy in proposed § 3.271(i).

Section 3.276—Asset Transfers and Penalty Periods

Sections 1522 and 1543 of 38 U.S.C. require VA to deny or discontinue pension when a claimant's or beneficiary's net worth, including consideration of annual income, is excessive. As stated in the above introductory information on net worth determinations and asset transfers, current § 3.276(b), which pertains to asset transfers, is not effective in proscribing transfers of significant assets for the purpose of creating pension entitlement, which is inconsistent with a needs-based benefit program. We therefore propose significant changes to VA's asset transfer regulation consistent with our interpretation of Congress' intent. Significantly, we propose to establish a 36-month look-back period for claimants who transfer assets in order to reduce net worth and create pension entitlement. We also propose to establish penalty periods related to such transfers.

Proposed § 3.276(a) would define ''covered asset,'' ''covered asset amount,'' ''fair market value,'' ''transfer for less than fair market value,'' ''annuity,'' ''trust,'' ''uncompensated value,'' ''look-back period'' and ''penalty period.'' These definitions would make this necessarily complex regulation easier to understand. We would also provide a cross-reference to the definition of ''claimant'' in proposed § 3.275, which, as previously discussed, would mean claimants, beneficiaries, and dependent spouses, as well as dependent or potentially dependent children. We use the same terminology in this NPRM when describing proposed changes to § 3.276.

We would define ''covered asset'' to mean an asset that was part of net worth, was transferred for less than fair market value, and would have caused or partially caused net worth to exceed the limit had the claimant not transferred the asset. The ''covered asset amount'' would be the monetary amount by which net worth would have exceeded the limit on account of a covered asset if the uncompensated value of the covered asset had been included in the net worth calculation. We would include two examples of covered asset amounts. These definitions are important because the covered asset amount is the amount that VA proposes to use to calculate the penalty period as described below. A smaller covered asset amount results in a shorter penalty period. We propose to define ''covered asset amount'' in this manner because, in our view, it would be inequitable to calculate a penalty period using the entire transferred amount when net worth would have exceeded the limit by only a small amount if the claimant had not transferred any assets at all.

In proposed § 3.276(a)(4), we propose to define ''fair market value'' as the price at which an asset would change hands between a willing buyer and willing seller who are under no compulsion to buy or sell and who have reasonable knowledge of relevant facts. VA uses the best available information to determine fair market value, such as inspections, appraisals, public records, and the market value of similar property if applicable. Using the best available information to determine a fair value is a restatement of current and longstanding policy.

We then propose to define ''transfer for less than fair market value'' as selling, conveying, gifting, or exchanging an asset for an amount less than the fair market value of the asset. In addition, we would include as a transfer for less than fair market value any asset transfer to or purchase of any financial instrument or investment that reduces net worth and would not be in the claimant's financial interest were it not for the claimant's attempt to qualify for VA pension by transferring assets to or purchasing such instruments or investments. Two examples of such instruments or investments are annuities and trusts. We would define ''annuity'' to mean ''a financial instrument that provides income over a defined period of time for an initial payment of principal.'' This definition is derived from the GAO report. We would define ''trust'' to mean a legal arrangement by which an individual (the grantor) transfers property to an individual or an entity (the trustee), who manages the property according to the terms of the trust, whether for the grantor's own benefit or for the benefit of another individual. As previously stated, the GAO report identified numerous organizations that assist claimants with transferring assets to create pension entitlement. Therefore, we are including these asset transfers in the proposed definition of ''transfer for less than fair market value.'' We note that similar terms are used in 42 U.S.C. 1382b(c), which pertains to Social Security Administration's SSI program. There are certain similarities between SSI and VA's pension program in that both are based on need. In light of VA's broad authority to implement appropriate net worth regulations and in the absence of specific statutory guidance, we have drawn some of the proposed language in this NPRM from 42 U.S.C. 1382b, which pertains to resources (*i.e.,* net worth) for SSI.

The ''uncompensated value'' of an asset would be defined as the difference between its fair market value and the amount of compensation an individual receives for the asset. (In this context, the word ''compensation'' has its more general meaning rather than the technical meaning given in 38 U.S.C. 101(13).) In the case of an asset transfer to, or purchase of, a financial instrument or investment such as a trust or an annuity, the uncompensated value would mean the amount of money or the monetary value of other assets so transferred.

Proposed § 3.276(a)(7) would define ''look-back period'' to mean the 36-month period before the date on which VA receives either an original pension claim or a new pension claim after a period of non-entitlement. As previously stated, VA proposes to establish a 3-year look-back period similar to that employed by the Social Security Administration in administering its SSI program. Although Medicaid uses a 5-year look-back period for most transfers of assets, as a policy matter, VA believes that a 3-year look-back period is sufficient to preserve the integrity of its pension program.

''Penalty period'' would be defined as a period of non-entitlement due to transfer of a covered asset.

Proposed § 3.276(b) would establish VA's policy with regard to pension entitlement and covered assets and would put claimants on notice that VA may require evidence to determine whether a prohibited asset transfer has occurred. This is consistent with current § 3.277(a), which provides that VA always has the right to request proof of entitlement to pension. We would reference § 3.277(a) in § 3.276(b). *See also* 38 U.S.C. 1506(1).

Proposed § 3.276(c) would establish a presumption, rebuttable by clear and convincing evidence, that transferring an asset during the look-back period was for the purpose of reducing net worth to establish entitlement to pension. As a result, the asset would be considered a covered asset. The presumption could be rebutted if the claimant establishes that he or she transferred an asset as the result of fraud, misrepresentation, or unfair business practice related to the sale or marketing of financial products or services for purposes of establishing entitlement to VA pension. We propose that evidence substantiating the application of this exception may include a complaint contemporaneously filed with state, local, or Federal authorities reporting the incident. In such a case, VA would not consider the transferred asset to be a covered asset and would thus not calculate any penalty period, although this would mean that net worth would be excessive and the provisions of § 3.274 regarding reducing net worth would apply.

Proposed § 3.276(d) would set forth an exception that applies to assets transferred to a trust for the benefit of a veteran's child whom VA rates or has rated as being permanently incapable of self-support under the provision of 38 CFR 3.356. VA would not consider assets transferred to a trust established on behalf of such a child to be covered assets as long as there is no circumstance under which distributions from the trust can be used to benefit the veteran, veteran's spouse, or surviving spouse.

VA considered providing for an exception consistent with the ''undue hardship'' determination prescribed in the aforementioned SSI statute, 42 U.S.C. 1382b(c)(1)(C)(iv). However, the statutory resource limit in the SSI program is $3,000 for an individual with a spouse and $2,000 for an individual with no spouse. *See* 42 U.S.C. 1382(a)(3). Because these limits are significantly lower than the net worth limit that VA proposes to use, we do not believe that a hardship provision is warranted.

In proposed § 3.276(e), VA would establish a penalty period for covered assets transferred during the look-back period and the criteria for calculating such a penalty period. In providing the calculations for the length of the penalty period, we have again drawn on 42 U.S.C. 1382b(c), pertaining to SSI. Subsection (c)(1)(A)(iv) of 42 U.S.C. 1382b establishes a formula for calculating penalty periods for purposes of SSI. VA's formula would be similar. VA's formula would determine a penalty period in months by dividing the covered asset amount by the applicable maximum annual pension rate under 38 U.S.C. 1521(d), 1541(d), or 1542 as of the date of the pension claim, rounded down to the nearest whole number. For veterans and surviving spouses, we would use the maximum annual pension rate at the aid and attendance level. (Surviving children are not entitled to aid and attendance.) We note that the higher the divisor, the shorter the penalty period. Although not all veterans and surviving spouses to whom the regulation would apply would qualify for pension at the aid and attendance level, we believe that most claimants who transfer covered assets would qualify at this level. Further, and again following the example of the SSI statute, we note that the divisor for calculating penalty periods for SSI is the maximum monthly SSI benefit payable. We would use the applicable maximum annual pension rate in effect as of the date of the pension claim and the rule would include the VA Web site at which the rates may be found.

We propose to set a maximum penalty period of 10 years. We considered setting the maximum penalty period at 36 months, which would be consistent with the SSI statute; however, after further consideration, we determined that it would be inequitable for an individual who transfers, for example, $1,000,000 to have a penalty period of the same length as an individual who transfers $25,000.

Under proposed § 3.276(e)(2), the penalty period would begin on the date that would have been the payment date of an original or new pension award if the claimant had not transferred a covered asset and the claimant's net worth had been within the limit. Under proposed § 3.276(e)(3), the claimant, if otherwise qualified, would then be entitled to pension benefits effective the last day of the last month of the penalty period, with a payment date as of the first day of the following month in accordance with 38 CFR 3.31.

We would provide an example of penalty period calculations at proposed § 3.276(e)(4).

Proposed § 3.276(e)(5) states that, with two exceptions, VA would not recalculate a penalty period under this section. VA would recalculate the penalty period if the original calculation is shown to be erroneous or if all of the covered assets were returned to the claimant before the date of claim or within 30 days after the date of claim. If, not later than 90 days after VA's decision notice pertaining to the penalty period, VA receives evidence showing that all covered assets have been returned to the claimant, VA would not assess a penalty period. Although VA would not assess a penalty period in such a situation, the claimant's net worth would be excessive, but would be available for the claimant to use for his or her needs consistent with Congressional intent. Once correctly calculated, the penalty period would be fixed, and return of covered assets after the 30-day period provided would not shorten the penalty period. Numerous penalty period recalculations would detract from the primary mission of paying pension benefits to those in need. Claimants always have the right to appeal any VA decision. *See* 38 CFR 20.201.

Section 3.277—Eligibility Reporting Requirements

VA has discretionary authority, under 38 U.S.C. 1506, to require pension beneficiaries to complete annual Eligibility Verification Reports (EVR) to verify the amount of their income, net worth, and the status of their dependents. VA has implemented this authority at 38 CFR 3.277(c)(2), which currently provides that VA ''shall'' require an EVR in particular situations. We now propose to remove the word ''shall'' and replace it with the word ''may,'' which reflects the statute and gives VA discretionary authority to require EVRs.

Section 3.278—Deductible Medical Expenses

Section 1503(a)(8) authorizes VA, in determining annual income in the current pension program, to exclude from annual income amounts paid by a veteran, veteran's spouse, or surviving spouse, or by or on behalf of a veteran's child, for unreimbursed medical expenses to the extent they exceed 5 percent of the applicable maximum annual pension rate. In the parents' DIC program, section 1315(f)(3) authorizes VA to exclude from a claimant's annual income ''unusual medical expenses.'' *See* 38 CFR 3.262(l) (defining unusual medical expenses and implementing the exclusion for parents' DIC and section 306 pension).

There is currently no regulation that adequately defines ''medical expense'' for VA purposes. Current 38 CFR 3.262(l) and 3.272(g) are clear that a deductible medical expense must be unreimbursed and must be made on behalf of certain individuals, *e.g.,* the veteran, veteran's spouse, veteran's surviving spouse, or other qualifying relatives. Except for the provision in 38 CFR 3.362(l) that unreimbursed health, accident, sickness, and hospitalization insurance premiums are included in medical expenses for purposes of section 306 pension and parents' DIC, VA regulations do not define what constitutes an unreimbursed medical expense for VA's needs-based benefit programs. In particular, no regulation reflects current VA policy pertaining to deductions available for institutional forms of care and in-home attendants.

We therefore propose to add new § 3.278 to improve clarity and consistency in determining what constitutes a medical expense that is deductible from a claimant's or beneficiary's income. We would use the term ''deductible'' because even though the statutes and the implementing regulations cited above speak in terms of medical expense ''exclusions,'' VA treats deductions and exclusions differently. A deduction is an amount subtracted from income, whereas an exclusion is an amount not counted in the first instance. For our purposes, this technical difference is not important.

Proposed § 3.278 would implement sections 1315(f)(3) and 1503(a)(8) by describing and defining the medical expenses that VA may deduct for purposes of three of VA's needs-based benefit programs. In proposed paragraph (a), we would define the scope of proposed § 3.278. Proposed paragraph (b) defines various terms. Proposed § 3.278(b)(1) would define ''health care provider.'' We propose to require that an individual be licensed by a state or country to provide health care in the state or country in which the individual provides the health care. We intend that individual states be responsible for such licensing. However, we recognize that some claimants, beneficiaries, and family members do not reside in any state and, therefore, we would require that the provider be licensed by a state ''or country.'' We also propose to list examples of licensed health care providers. In paragraph (b)(1)(ii), we would include within the definition of ''health care provider'' a nursing assistant or home health aide who is supervised by a licensed health care provider.

Paragraphs (b)(2) and (b)(3) of proposed § 3.278 would define ''activities of daily living'' (ADL) and ''instrumental activities of daily living'' (IADL). These terms are well-known and understood in the health care industry and are used in other Federal regulations, including VA regulations. For the purposes of determining deductible medical expenses for VA's needs-based benefits, ADLs would mean basic self-care activities and would consist of ''bathing or showering, dressing, eating, toileting, and transferring.'' We would also define ''transferring'' to mean an individual's moving himself or herself, such as getting in and out of bed. These activities are essentially those described in current § 3.352, and the inability to perform these activities is considered at least partly determinative of an individual's need for the regular aid and attendance of another individual for VA purposes. Proposed § 3.278(b)(3) would define IADLs for VA medical expense deduction determinations as independent living activities, such as shopping, food preparation, housekeeping, laundering, managing finances, handling medications, using the telephone, and transportation for non-medical purposes. Proposed paragraph (e)(4) would provide that VA does not consider expenses for assistance with IADLs to be medical expenses except in certain circumstances because such personal care expenses are not intrinsically medical. Other Government agencies, such as the Internal Revenue Service and Social Security Administration, also do not consider such expenses to be medical expenses for their purposes except in limited circumstances. One item that is often included as an IADL is transportation. Our definition of IADL would include ''transportation for non-medical purposes'' because it is longstanding VA policy to consider transportation for medical purposes to be a deductible medical expense, and we would continue that policy.

Although managing finances is an IADL for purposes of this section, we propose to clarify that managing finances does not include services rendered by a VA-appointed fiduciary. We also provide, in proposed paragraph (e)(5), that a fee paid to a VA-appointed fiduciary is not a deductible medical expense. Beneficiaries pay fees to VA-appointed fiduciaries out of their monthly VA benefits. Accordingly, we have determined that it would be inappropriate to permit a deduction from income for financial management services, and thus increase the amount of pension paid, when VA benefits are used to pay for the services.

Proposed § 3.278(b)(4) would define ''custodial care'' as regular assistance with two or more ADLs or regular supervision because an individual with a mental disorder is unsafe if left alone due to the mental disorder This definition is consistent with current VA policy.

Proposed § 3.278(b)(5) would define ''qualified relative.'' Under 38 U.S.C. 1503(a)(8) and 1315(f)(3), VA may deduct medical expenses paid by a veteran, a veteran's dependent spouse, a surviving spouse, or a surviving child (pension and section 306 pension) or by a veteran's parent (parents' DIC). The implementing regulations, 38 CFR 3.262(l) and 3.272(g), limit whose medical expenses VA may deduct. In addition to the claimant's or beneficiary's medical expenses, the medical expenses of dependents and certain other family members are deductible. We would define ''qualified relative'' as a veteran's dependent spouse, a veteran's dependent or surviving child, and other relatives of the claimant who are members or constructive members of the claimant's household whose medical expenses are deductible under §§ 3.262(l) or 3.272(g). A ''constructive member'' of a household is an individual who would be a member of the household if the individual were not in a nursing home, away at school, or a similar situation. Defining a ''qualified relative'' for the purposes of the medical expense deduction makes the regulation simpler. We would not include veterans or surviving spouses in the definition because veterans and surviving spouses are the only pension beneficiaries who can be rated or presumed to require the aid and attendance of another individual or to be housebound under 38 CFR 3.351. This distinction is significant as will be explained below in this NPRM. We would also not include claimants who are parents for parents' DIC purposes because they too can be rated or presumed to require the aid and attendance of another individual.

Proposed § 3.278(b)(6), the definition of ''nursing home,'' would cross-reference current § 3.1(z)(1) or (2), which defines ''nursing home'' for all of 38 CFR part 3, with provision made that if the facility is not located in a state, then the facility must be licensed in the country in which it is located.

Consistent with current VA health care regulations, proposed paragraph (b)(7) would define ''medical foster home'' as a privately owned residence, recognized and approved by VA, that offers a non-institutional alternative to nursing home care for veterans who are unable to live alone safely due to

chronic or terminal illness. *See* 38 CFR 17.73.

Proposed paragraph (b)(8) would define ''assisted living, adult day care, or similar facility.'' We would use this rather lengthy term to avoid confusion that could result from the fact that not all facilities that meet our proposed definition use the same nomenclature. Some governmental institutions could also fall under our proposed definition. Our proposed definition for such a facility is that it must provide individuals with custodial care; however, the facility may contract with a third-party provider to provide such care. We would further provide that residential facilities must be staffed with custodial care providers 24 hours per day. To be included in our definition, a facility must be licensed if such facilities are required to be licensed in the state or country in which the facility is located.

Proposed paragraph (c) would prescribe VA's general medical expense policy and list examples of expenses that VA considers medical expenses for its needs-based benefits. In general, medical expenses for VA purposes are payments for items or services that are medically necessary or that improve a disabled individual's ability to function. This reflects longstanding VA policy with respect to medical expenses.

Proposed § 3.278(c) would specify that the term ''medical expenses'' includes, but is not limited to, payments specified in paragraphs (c)(1) through (c)(7). Paragraphs (c)(1) through (c)(7) list payments made to a health care provider; payments for medications, medical supplies, medical equipment, and medical food, vitamins, and supplements; payments for adaptive equipment; transportation expenses for medical purposes; health insurance premiums; smoking cessation products; and payments for institutional forms of care and in-home care as provided in paragraph (d). We propose to include in paragraph (c) detailed provisions relating to the broad categories of medical expenses. These clarifications provide further guidance regarding the medical expenses that may be deducted from income.

Under current policy, medical expenses include payments for care provided by a health care provider, but not for cosmetic procedures that only improve or enhance appearance, although these may be deductible if the purpose of such procedure is to improve a congenital or accidental deformity or is related to treatment for a diagnosed medical condition. Proposed §§ 3.278(c)(1) and (e)(2) would continue this policy.

We propose to prescribe in § 3.278(c)(4) that VA limits the deductible expense per mile for travel by private vehicle to the current Privately Owned Vehicle (POV) mileage reimbursement rate specified by the United States General Services Administration (GSA). The current amount can be obtained from *www.gsa.gov,* and we would also post the current amount on VA's Web site at a location to be determined. We have inserted ''location to be determined'' in the proposed regulation text as a placeholder and would provide the Web site address in the final rule. We would also clarify that the difference between transportation expenses calculated under this criterion and the amount of other VA or non-VA transportation reimbursements are deductible medical expenses. This policy is similar to considering a co-payment to a health care provider as a deductible medical expense even though insurance pays the remainder. We would provide an example of this longstanding policy in the proposed rule.

In proposed § 3.278(c)(5), we would clarify that medical expenses include Medicare Parts B and D premiums as well as long-term care insurance premiums.

Proposed § 3.278(d) would prescribe VA's medical expense policy for payments for institutional and in-home care services. In accordance with longstanding VA policy, proposed paragraph (d)(1) would provide that payments to hospitals, nursing homes, medical foster homes, and inpatient treatment centers, including the cost of meals and lodging charged by such facilities, are deductible medical expenses.

In paragraph (d)(2), we propose to clarify VA's policy with respect to in-home attendants. We also propose a limit to the hourly in-home care rate that VA would deduct. We propose this limit to minimize instances of fraudulent or excessive in-home care charges. We also would require that payments, to qualify as medical expenses for VA, must be commensurate with the number of hours that the provider attends to the disabled individual. The proposed limit is reasonable and derived from a reputable industry source. The limit that we propose is the average hourly rate for home health aides, which is published annually by the MetLife Mature Market Institute in its ''Market Survey of Long-Term Care Costs'' (MetLife Survey). We considered using for this purpose the mean hourly wage for home health aides published by the United States Department of Labor (DoL) Bureau of Labor Statistics. (*See http://www.bls.gov/oes/current/oes311011.htm.*) However, the 2012 Met Life Survey shows that the 2012 national average private-pay hourly rate for home health aides to be $21.00 per hour, which was unchanged from 2011. The lowest average hourly rate was $3.00 per hour and the highest was $32.00 per hour. The May 2013 DoL mean hourly wage for home health wage was $10.60 per hour. We have determined that using the higher hourly rate as a limit better supports our policy decision to ensure that wartime veterans and their families receive the highest level of care possible while simultaneously being mindful of the interests of taxpayers. We would use the most current applicable MetLife report and would publish the limit on a VA Web site at a location to be determined. We have inserted ''location to be determined'' in the proposed regulation text as a placeholder and would provide the Web site address in the final rule.

We would next state the general rule that an in-home attendant must be a health care provider for the expense to qualify as a medical expense and that only payments for assistance with ADLs or health care services are medical expenses. However, if a veteran or a surviving spouse (or parent for parents' DIC) meets the criteria for regular aid and attendance or is housebound, the attendant does not need to be a health care provider. In addition, VA would consider payments for assistance with IADLs (as defined by VA) to be medical expenses, as long as the attendant's primary responsibility is to provide the veteran, surviving spouse, or parent with health care services or custodial care. In accordance with current VA policy, this provision would also apply to a qualified relative if a physician or physician assistant states in writing that, due to physical or mental disability, the relative requires the health care services or custodial care that the in-home attendant provides.

Similarly, proposed paragraph (d)(3) would address facilities that are assisted living, adult day care, and similar facilities, and would provide the general rule that only payments for health care services and assistance with ADLs provided by a health care provider are medical expenses. However, if a veteran or surviving spouse (or parent for parents' DIC) meets the criteria for regular aid and attendance or is housebound, the care does not need to be provided by a health care provider. In addition, if the primary reason for the veteran or surviving spouse to be in the facility is to receive health care services or custodial care that the facility

provides, then VA would deduct all fees paid to the facility, including meals and lodging. This provision would also apply to a qualified relative if a physician or physician assistant states in writing that, due to the relative's physical or mental disability, the relative requires the health care services or custodial care that the facility provides.

Proposed paragraph (e) would list examples of items and services that are not medical expenses for purposes of VA needs-based benefits. We would clarify that generally, payments for items or services that benefit or maintain general health, such as vacations and dance classes, are not medical expenses, nor are fees paid to a VA-appointed fiduciary, as explained above. Proposed paragraph (e)(2) would provide that cosmetic procedures are not medical expenses except in the instances described in proposed paragraph (c)(1). We would also clarify that except as specifically provided, medical expenses do not include assistance with IADLs (*i.e.,* shopping, food preparation, housekeeping, laundering, managing finances, handling medications, using the telephone, and transportation for non-medical purposes), nor do they include payments for meals and lodging, except in limited situations involving custodial care. Here, we would explicitly state that this category applies to facilities such as independent living facilities that do not provide individuals with health care services or custodial care.

VA's intent in promulgating these rules is to ensure that deductions from countable income reflect Congress' intent that amounts be deducted for ''medical expenses'' only, and not for other services such as meals and lodging or excessive administrative services not directly related to the provision of medical care. We would provide cross references to §§ 3.262(l) and 3.272(g); amend §§ 3.262(l) and 3.272(g) to cross reference the new medical expense regulation; and make corresponding amendments to § 3.261.

Section 3.279—Statutory Exclusions From Income or Assets (Net Worth or Corpus of the Estate)

As stated above in this NPRM in the information pertaining to § 3.275, we propose a new § 3.279 regarding statutory exclusions from income or assets, which would list 27 exclusions applicable to all VA-administered needs-based benefits. We note that we propose no change to net worth terminology for VA's older benefit programs in this rulemaking; therefore, we would continue to use the previous terms in addition to the term ''assets,'' which would apply to current-law pension. We would use the terms ''Corpus of estate'' in the applicable heading in paragraphs (b) through (e) along with ''assets,'' in order to ensure consistency with current 38 CFR 3.261(c). We here use the term ''assets'' to describe the changes and additions.

Many of these exclusions are already contained in current VA regulations. We have determined that it would be useful for regulation users to have all of the statutory exclusions listed in one regulation. Exclusions that are not applicable to every VA-administered needs-based benefit would be contained only in the regulations pertaining to the benefit. This NPRM describes statutory exclusions that are either not currently contained in 38 CFR part 3 or are only partly contained in current part 3.

Proposed paragraph (a) would describe the scope of the section as described above.

Proposed § 3.279(b)(1) would exclude from income relocation payments made under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. 42 U.S.C. 4601. Payments made under the Act are excluded from income by 42 U.S.C. 4636.

Proposed § 3.279(b)(4) would exclude from income and assets payments made to individuals because of their status under Public Law 103–286, as victims of Nazi persecution.

Proposed § 3.279(b)(7) would exclude from income and assets payments under the National Flood Insurance Act of 1968. *See* 42 U.S.C. 4031.

Proposed § 3.279(c)(1) would exclude from income and assets funds paid under the Indian Tribal Judgment Funds Use or Distribution Act, 25 U.S.C. 1401, while such funds are held in trust. The first $2,000 per year of income received by individual Native Americans in satisfaction of a judgment of the United States Court of Federal Claims is excluded from income. The law originally pertained to judgments of the Indian Claims Commission as well as judgments of the United States Court of Federal Claims. However, the Government discontinued the Indian Claims Commission on September 30, 1978, so we would not refer to the Commission in proposed § 3.279(c)(1). We also propose to include a clarification which complies with a precedent opinion of VA's Office of the General Counsel, VAOPGCPREC 1–94, 59 FR 27307, May 26, 1994, which held that the $2,000 exclusion for per-capita payments applies to the sum of all payments received in an annual reporting period.

Proposed § 3.279(c)(2) would exclude from income the first $2,000 per year received by individual Indians that is derived from an individual Native American's interest in trust or restricted lands. It would also exclude from assets all interest of individual Native Americans in trust or restricted lands. *See* 42 U.S.C. 1408. Current regulations only address the income component.

Proposed § 3.279(c)(3) would address exclusions under the Per Capita Distributions Act, codified at 25 U.S.C. 117a–117c. Under section 117b(a), distributions of funds are subject to the provisions of 25 U.S.C. 1407. The exclusions under § 3.279(c)(3) would mirror the exclusions under § 3.279(c)(1).

Proposed § 3.279(c)(4) would exclude from income and assets income derived from certain submarginal land of the United States that is held in trust for certain Native American tribes in accordance with 25 U.S.C. 459e.

Proposed § 3.279(c)(5) would exclude from income and assets up to $2,000 per year of per capita distributions under the Old Age Assistance Claims Settlement Act, 25 U.S.C. 2301.

Proposed § 3.279(c)(6) would exclude from income and assets any income or asset received under the Alaska Native Claims Settlement Act, 43 U.S.C. 1626. Current §§ 3.262(x) and 3.272(t) exclude the following payments from income consideration: cash (including cash dividends on stock received from a Native American Corporation) to the extent that it does not, in the aggregate, exceed $2,000 per individual per year; stock (including stock issued or distributed by a Native American Corporation as a dividend or distribution on stock); a partnership interest; land or an interest in land (including land or an interest in land received from a Native American Corporation as a dividend or distribution on stock); and an interest in a settlement trust. The Alaska Native Claims Settlement Act, 43 U.S.C. 1626, provides that the income or asset received from Native Corporation shall not ''be considered or taken into account as an asset or resource'' for any Federal program. 43 U.S.C. 1626(c). Therefore, to extend the exclusion to assets, proposed § 3.279(c)(6) would exclude from assets the income and assets described above. We would also extend the exclusion to certain bonds that are statutorily excluded but are not specifically mentioned in current § 3.262(x) or 3.272(t).

Proposed § 3.279(c)(7) would exclude from income and assets payments received under the Maine Indian Claims Settlement Act of 1980, 25 U.S.C. 1721.

Proposed § 3.279(c)(8) would exclude payments received by Native Americans under the settlement in *Cobell* v. *Salazar,* Civil Action No. 96–1285 (TFH) (D.D.C.). Section 101(f)(2) of Public Law 111–291, December 8, 2010, provides that amounts from this settlement received by an individual Indian as a lump sum or a periodic payment are not to be treated as income or resources (*i.e.,* net worth for VA purposes) during the 1-year period beginning on the date of receipt. Accordingly, because VA counts lump-sum payments as income for a 1-year period, proposed § 3.279(c)(8) would exclude such payments from income and would exclude them from assets for 1 year.

Proposed § 3.279(d)(1) would exclude from income allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998, 29 U.S.C. 2931, which provides that allowances, earnings, and payments to individuals participating in programs under the Act shall not be considered as income for the purposes of determining eligibility for, and the amount of, income transfer and in-kind aid furnished under any Federal or Federally-assisted needs-based program. There would be no net worth exclusion.

Proposed § 3.279(d)(2) would exclude from income allowances, earnings, and payments to AmeriCorps participants pursuant to 42 U.S.C. 12637. There would be no asset exclusion.

Current §§ 3.262(q) and 3.272(k) list payments from various Federal volunteer programs that are excluded from income. Through a series of legislative changes, these programs are now administered by the Corporation for National and Community Service. *See* Public Law 103–82. Section 5044(f) of title 42, United States Code, provides that payments made under the act which created the Corporation for National and Community Service, with certain exceptions, do not reduce the level of or eliminate eligibility for assistance that volunteers may be receiving under other government programs. We propose to account for this change in the law by providing, in proposed § 3.279(d)(3), that payments received from any of the volunteer programs administered by the Corporation for National and Community Service would be excluded from income and assets unless the payments are equal to or greater than the minimum wage. We propose to provide that the minimum wage for this purpose is that under the Fair Labor Standards Act of 1938, 29 U.S.C. 201, or that under the law of the state where the volunteers are serving, whichever is greater.

Proposed § 3.279(e)(1) would exclude from income and assets the value of the allotment provided to an eligible household under the Food Stamp Program. Proposed § 3.279(e)(2) would exclude from income and assets the value of free or reduced-price food under the Child Nutrition Act of 1966, 42 U.S.C. 1771.

Proposed § 3.279(e)(3) would exclude from income the value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990, 42 U.S.C. 9858.

Proposed § 3.279(e)(4) would exclude from income the value of services, but not wages, provided to a resident of an eligible housing project under a congregate services program under the Cranston-Gonzalez National Affordable Housing Act. 42 U.S.C. 8011.

Proposed § 3.279(e)(5) would exclude from income and assets the amount of any home energy assistance payments or allowances provided directly to, or indirectly for the benefit of, an eligible household under the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C. 8621.

Proposed § 3.279(e)(6) would exclude from income payments, other than wages or salaries, received from programs funded under the Older Americans Act of 1965, 42 U.S.C. 3001. In accordance with 42 U.S.C. 3020a(b), such payments may not be treated as income for the purpose of any other program or provision of Federal or state law.

Proposed § 3.279(e)(7) would exclude from income and assets the amount of student financial assistance received under Title IV of the Higher Education Act of 1965, including Federal work-study programs, Bureau of Indian Affairs student assistance programs, or vocational training under the Carl D. Perkins Vocational and Technical Education Act of 1998, as amended, 20 U.S.C. chapter 44.

Proposed § 3.279(e)(8) would exclude from income annuities received under subchapter 1 of the Retired Serviceman's Family Protection Plan. 10 U.S.C. 1441. We note that this exclusion is currently listed at § 3.261(a)(14) for prior law pension, but is not listed as an income exclusion from current pension at § 3.262. Inasmuch as 10 U.S.C. 1441 was amended after January 1, 1979, we believe this statutory exclusion meets the requirement for inclusion in § 3.279, *i.e.,* it applies to all needs-based benefits that VA administers.

As an aid to those who read this supplementary information, we are providing the following derivation table for proposed § 3.279. It lists only new income exclusions (*i.e.,* income exclusions not currently found in 38 CFR part 3) and exclusions derived from current § 3.272. It does not list exclusions derived from §§ 3.261 or 3.262. If an exclusion is derived from §§ 3.261 or 3.262 but not listed in current § 3.272, the derivation table below lists the proposed § 3.279 exclusion as ''new.''

TABLE 2—PROPOSED § 3.279 DERIVATION

Proposed § 3.279	Derived from current § 3.272 (or "New")
3.279(b)(1)	New.
3.279(b)(2)	3.272(v).
3.279(b)(3)	3.272(p).
3.279(b)(4)	New.
3.279(b)(5)	3.272(o).
3.279(b)(6)	3.272(u).
3.279(b)(7)	New.
3.279(c)(1)	New.
3.279(c)(2)	3.272(r).
3.279(c)(3) through (c)(5)	New.
3.279(c)(6)	3.272(t).
3.279(c)(7) through (d)(2)	New.
3.279(d)(3)	3.272(k).
3.279(e)(1) through (e)(8)	New.
3.279(e)(9)	3.272(w).

Conforming Amendments, Corrections, and Other Exclusions

Because the statutory exclusions pertaining to all VA-administered needs-based benefits would be listed in proposed § 3.279, for purposes of notice, we propose not to include such statutory exclusions in other regulations. We previously listed paragraphs we would not include in proposed § 3.275, which pertains to net worth for current pension. Section 3.263 pertains to net worth for section 306 pension and dependency of parents for VA service-connected compensation purposes. (Net worth is not a factor for parents' DIC or old-law pension.) We would remove paragraphs (e), (f), (g), and (h) from § 3.263 because these paragraphs list net worth exclusions that would be listed at new § 3.279, in paragraphs (b)(5), (b)(3), (b)(6), (b)(2), and (e)(9), respectively.

We would amend § 3.270, which describes the applicability of certain regulations that pertain to needs-based benefits, to remove from paragraph (a) ''Sections 3.250 to 3.270.'' and add in its place ''Sections 3.250 to 3.270 and sections 3.278 and 3.279.'' Currently, §§ 3.250 to 3.270 apply only to (1) the

prior pension programs, (2) parents' DIC, and (3) parental dependency. Current §§ 3.271 to 3.277 apply only to current pension. Because proposed new § 3.278 would apply to all VA-administered needs-based benefits for which medical expenses may be deducted and proposed new § 3.279 would apply to all VA-administered needs-based benefits, it is necessary to amend § 3.270 to include the proposed new regulations.

For reasons described below in the information pertaining to conforming amendments and additions to § 3.272, we would remove paragraph (i) from § 3.263.

Conforming Amendments and Corrections to Sections 3.261 and 3.262

Sections 3.261 and 3.262 set forth income exclusions for section 306 pension, old-law pension, parental dependency for compensation under § 3.250, and parents' DIC. We would remove paragraphs (s), (u), (v), (x), (y), and (z) from current § 3.262 because these paragraphs list income exclusions that would be listed at new § 3.279, in paragraphs (b)(5), (b)(3), (c)(2), (c)(6), (b)(6), (b)(2), and (e)(9), respectively. We would redesignate paragraphs (t) and (w) of current § 3.262 as proposed paragraphs (s) and (t) of proposed § 3.262. We also propose a correction to current § 3.262(w), which we propose to redesignate as § 3.262(t). Current § 3.262(w) provides that income received under Section 6 of the Radiation Exposure Compensation Act, Public Law 101–426, is excluded for purposes of parents' DIC under the authority of 42 U.S.C. 2210 note. This is accurate; however, the exclusion also applies to parental dependency for compensation purposes. The note at 42 U.S.C. 2210 provides that ''amounts paid to an individual under [Section 6 of the Radiation Exposure Compensation Act] . . . shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code or the amount of such benefits.'' 42 U.S.C. 2210 note. The list of benefits at section 3803(c)(2)(C) does not include section 306 pension or old-law pension but does include parental dependency for compensation purposes in addition to parents' DIC. Accordingly, the exclusion at proposed § 3.262(t) would apply to parental dependency for compensation purposes as well as to parents' DIC.

Additionally, we would add to proposed § 3.262 a new paragraph (u), which would refer to other payments excluded from income in proposed § 3.279.

We would remove current entries (35) through (37) and (39) through (41) from current § 3.261(a). We propose a correction to current entry (38) of § 3.261(a), which we would redesignate as entry (35). This entry currently references § 3.262(w), which would be redesignated as § 3.262(t) as described above. Further, current entry (38) of § 3.261(a) is erroneous because it shows that income received under Section 6 of the Radiation Exposure Compensation Act is excluded for purposes of old-law pension and section 306 pension when this is not the case as explained above. Proposed entry (35) would provide the correct information.

Additionally, we would add to proposed § 3.261(a) a new entry (36), which would refer to other payments excluded from income in proposed new § 3.279.

For reasons described below in the information pertaining to conforming amendments and additions to § 3.272, we would remove paragraph (a)(41) from § 3.261 and paragraph (aa) from § 3.262; and paragraph (i) from § 3.263.

Conforming Amendments and Additions to Section 3.272

Section § 3.272 sets forth income exclusions for current pension. We propose to add to current § 3.272(g) a reference to proposed § 3.278 that would define medical expenses. We also propose to remove from current § 3.272, regarding exclusions from income, paragraphs (k), (o), (p), (r), (t), (u), (v), and (w), because these paragraphs contain statutory income exclusions that would be listed in proposed § 3.279. We also propose to redesignate current paragraphs (q), (s), and (x) as (o), (p), and (q), respectively. We would add new paragraphs (k), (r), and (s). We would also amend the authority citation in paragraph (q), as proposed to be redesignated, due to a law change. Section 604 of Public Law 111–275 amended 38 U.S.C. 1503 to add a new paragraph (a)(11), which we describe below, and redesignated former paragraph (a)(11) as (a)(12).

We propose to remove paragraph (w) because it describes a statutory income and asset exclusion of payments received under the Medicare transitional assistance program and any savings associated with the Medicare prescription drug discount card. This program was discontinued on December 31, 2005. *See* 42 U.S.C. 1395w–141(a)(ii)(C). The program was replaced with the Medicare coverage gap discount program under the authority of 42 U.S.C. 1395w–114a. The statutory authority for the new program does not include language pertaining to eligibility to other Federal benefits; therefore, we propose to remove this exclusion.

We also propose to add a new income exclusion at § 3.272(k) that would clarify VA's policy pertaining to income from certain annuities. We would provide that VA would exclude payments from an annuity and count, on an annual basis, only the interest component of the payments if a claimant or beneficiary, or someone acting on his or her behalf, transfers an asset to the annuity principal and either (1) VA has already considered the fair market value of the transferred asset as an asset, or (2) the funds used to purchase the annuity were proceeds from the sale of the claimant's or beneficiary's primary residence that was previously excluded as an asset from VA's net worth calculation and such funds are not sufficient to cause net worth to exceed the limit under proposed § 3.274(a).

Generally, VA counts income from Individual Retirement Accounts and similar investments, even though such income represents a partial return on principal. In addition, a claimant or beneficiary may transfer assets from one form to another form, *e.g.,* selling real estate at fair market value and placing the proceeds into a savings account or certificate of deposit. Such a transfer of assets has no impact on net worth for VA pension as long as VA has included the fair market value as an asset and net worth remains within the net worth limit. However, sometimes a claimant or beneficiary, or someone acting on his or her behalf, will sell an asset or his or her residence and purchase an annuity with the proceeds. We emphasize that these are situations in which the proceeds would not cause net worth to bar pension entitlement. If a claimant sells his or her primary residence that was previously excluded as an asset and uses the proceeds to purchase an annuity, VA views such a transfer in a similar manner as if the claimant had placed the proceeds from the sale in a bank account. If the proceeds were placed in a bank account, then the bank account itself would be an asset. However, incremental withdrawals from the bank account would not count as income. Accordingly, fairness would dictate that the same proceeds, if placed into an annuity principal rather than a bank account, should not result in countable income that reduces pension entitlement, although the annuity principal itself could adversely affect pension entitlement if the value of the

annuity principal caused net worth to exceed the net worth limit.

In proposed § 3.272(r), we would incorporate a new statutory income exclusion. Section 604 of the Veterans' Benefits Act of 2010, Public Law 111–275, amended 38 U.S.C. 1503(a) to provide a new income exclusion beginning in calendar year 2012. The statute now excludes from a veteran's countable income ''payment of a monetary amount of up to $5,000 to a veteran from a state or municipality that is paid as a veterans' benefit due to injury or disease.'' We propose to implement this change in law by excluding all such payments from the claimant's or beneficiary's income, not to exceed a total of $5,000 in a 12-month annualization period (an annualization period is generally a calendar year). In proposed § 3.272(s), we would add a reference to other payments excluded from income listed in § 3.279.

As an aid to those who read this supplementary information, we are providing the following proposed distribution and derivation tables for current and proposed § 3.272.

TABLE 3—CURRENT § 3.272 DISTRIBUTION

Current § 3.272	Distributed to or no change in location
3.272(a) through (j)	No change.
3.272(k)	3.279(d)(3).
3.272(l) through (n)	No change.
3.272(o)	3.279(b)(5).
3.272(p)	3.279(b)(3).
3.272(q)	3.272(o).
3.272(r)	3.279(c)(2).
3.272(s)	3.272(p).
3.272(t)	3.279(c)(6).
3.272(u)	3.279(b)(6).
3.272(v)	3.279(b)(2).
3.272(w)	Removed.
3.272(x)	3.272(q).

TABLE 4—PROPOSED § 3.272 DERIVATION

Proposed § 3.272	Derived from, no change, or ''new''
3.272(a) through (f)	No change.
3.272(g), last sentence	New.
3.272(h) through (j)	No change.
3.272(k)	New.
3.272(l) through (n)	No change.
3.272(o)	3.272(q).
3.272(p)	3.272(s).
3.272(q)	3.272(x).
3.272(r)	New.
3.272(s)	New.

Statutory Change to Medicaid Nursing Home Provision

We propose to amend current 38 CFR 3.551(i) to reference the authorizing statute, 38 U.S.C. 5503(d)(7) rather than to specify the statutory sunset date. Section 203 of Public Law 112–260, enacted January 10, 2013, amended 38 U.S.C. 5503(d)(7) to extend to November 30, 2016, the sunset date for reductions of pension to $90 for certain beneficiaries receiving Medicaid-approved care in a nursing home. Previously, the Veterans Benefits Act of 2010, Public Law 111–275, had extended this sunset date to May 31, 2015, and Public Law 112–56 had extended it to September 30, 2016. To avoid multiple future regulatory changes, proposed paragraph (i) would provide the sunset date as the date given in 38 U.S.C. 5503(d)(7).

We would also add ''surviving child'' where appropriate to state that the Medicare reduction pertains to a surviving child claiming or receiving pension in his or her own right. This change would make the rule consistent with the statutory amendments made by section 606 of the Veterans Benefits Act of 2010. We would make clarifying changes to the title and content of current § 3.551(i) to reflect the above noted changes. Finally, we would amend 38 CFR 3.503 to add paragraph (c), which would be an effective-date provision pertaining to Medicaid-covered nursing home care for surviving children. Proposed paragraph (c) would mirror §§ 3.501(i)(6) and 3.502(f), which apply to veterans and surviving spouses, respectively. We would amend the authority citation to include 38 U.S.C. 5503(d).

Paperwork Reduction Act

This proposed rule includes a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that requires approval by the Office of Management and Budget (OMB). Accordingly, under 44 U.S.C. 3507(d), VA has submitted an information collection request to OMB for review. OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Proposed 38 CFR 3.276 and 3.278 contain a collection of information under the Paperwork Reduction Act of 1995. If OMB does not approve the collection of information as requested, VA will immediately remove the provisions containing a collection of information or take such other action as is directed by OMB.

Comments on the collections of information contained in this proposed rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to the Director, Office of Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026 (this is not a toll-free number); or email comments through *www.Regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AO73.''

VA considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The collections of information contained in 38 CFR 3.276 and 3.278 are described immediately following this paragraph, under their respective titles.

Title: Asset Transfers and Penalty Periods.

Summary of collection of information: Under proposed 38 CFR 3.276, claimants would be required to report to VA whether they have transferred assets within the 3 years prior to claiming pension or anytime thereafter and if so, information about those assets. This would also require amendments to the following existing application forms:

- VA Form 21–526, Veterans Application for Compensation and/or Pension, OMB Control Number 2900–0001.
- VA Form 21P–527, Income, Net Worth, and Employment Statement, OMB Control Number 2900–0002.
- VA Forms 21P–534, Application for Dependency and Indemnity

Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child (Including Death Compensation if Applicable), and 21P–534EZ, Application for DIC, Death Pension, and/or Accrued Benefits, OMB Control Number 2900–0004.

- VA Forms 21P–527EZ, Application for Pension, OMB Control No. 2900–0002.

Description of the need for information and proposed use of information: The information is needed to ensure that only qualified claimants receive VA needs-based benefits.

Description of likely respondents: Claimants for VA pension or survivor benefits.

Estimated frequency of responses: Once per claim.

Estimated number of respondents per year and respondent burden:

VA form No.	OMB control No.	Estimated number of pension and survivor benefit respondents per year	Estimated respondent burden	Estimated total annual reporting and recordkeeping burden (hours)
21–526	2900–0001	25,000	1 hour	25,000
21P–527	2900–0002	25,000	1 hour	25,000
21P–534	2900–0004	25,000	1 hour, 15 minutes	31,250
21P–534EZ	2900–0004	75,000	50 minutes	62,500
21–527EZ	2900–0002	75,000	50 minutes	62,500

Title: Deductible Medical Expenses.

Summary of collection of information: Under proposed 38 CFR 3.278, claimants would be required to submit information pertaining to their medical expenses. Certain claimants would also be required to submit evidence that they need custodial care or assistance with activities of daily living. This would also require amendments to the following existing forms:

- The application forms described above in the information pertaining to asset transfers and penalty periods.
- VA Form 21P–8416, OMB Control Number 2900–0161.

Description of the need for information and proposed use of information: The information is needed to ensure that only qualified claimants receive VA needs-based benefits.

Description of likely respondents: Claimants for VA pension benefits.

Estimated number of respondents per year: 60,000 pension claimants.

Estimated frequency of responses: Annual.

Estimated respondent burden: 30,000 hours (30 minutes per form × 60,000 respondents annually).

Regulatory Flexibility Act

The Secretary certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would directly affect only individuals and would not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action'' requiring review by the OMB, unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined to be a significant regulatory action under Executive Order 12866 because it will have an annual effect on the economy of $100 million or more, and it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this proposed rule are 64.104, Pension for Non-Service-Connected Disability for Veterans, and 64.105, Pension to Veterans Surviving Spouses, and Children.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and

submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert A. McDonald, Secretary, Department of Veterans Affairs, approved this document on August 6, 2014, for publication.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Pensions, Veterans.

Dated: January 7, 2015.

William F. Russo,

Acting Director, Office of Regulation Policy & Management, Office of the General Counsel, U.S. Department of Veterans Affairs.

For reasons set out in the preamble, VA proposes to amend 38 CFR part 3 as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Amend the table in § 3.261(a) as follows:

■ a. Remove entries (35) through (37) and (39) through (42).

■ b. Redesignate entry (38) as entry (35).

■ c. Revise newly designated entry (35).

■ d. Add entry (36).

The revision and addition read as follows:

§ 3.261 Character of income; exclusions and estates.

* * * * *

(a) *Income.*

Income	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension; old-law (veterans, surviving spouses and children)	Pension; section 306 (veterans, surviving spouses and children)	See—
* * *		*	*	*	*
(35) Income received under Section 6 of the Radiation Exposure Compensation Act (Pub. L. 101–426).	Excluded	Excluded	Included	Included	§ 3.262(t).
(36) Other payments excluded from income listed in § 3.279.	Excluded	Excluded	Excluded	Excluded	§ 3.262(u).

* * * * *

■ 3. Amend § 3.262 as follows:

■ a. Add a sentence to the end of paragraph (l) introductory text.

■ b. Remove paragraphs (s), (u), (v), (x), (y), (z), and (aa).

■ c. Redesignate paragraphs (t) and (w) as paragraphs (s) and (t), respectively.

■ d. Revise newly designated paragraph (t).

■ e. Add a new paragraph (u).

The additions and revision read as follows:

§ 3.262 Evaluation of income.

* * * * *

(l) * * * For the definition of what constitutes a medical expense, *see*

§ 3.278 Deductible medical expenses.

* * * * *

(t) *Radiation Exposure Compensation Act.* For the purposes of parents' dependency and indemnity compensation and dependency of parents under § 3.250, there shall be excluded from income computation payments under Section 6 of the Radiation Exposure Compensation Act of 1990.

(u) *Other payments.* Other payments excluded from income listed in § 3.279.

§ 3.263 [Amended]

■ 4. Amend § 3.263 by removing paragraphs (e), (f), (g), (h), and (i).

§ 3.270 [Amended]

■ 5. Amend § 3.270 as follows:

■ a. Revise the heading in paragraph (a) by removing ''*Sections 3.250 to 3.270*'' and adding in its place ''*Sections 3.250 through 3.270 and sections 3.278 through 3.279*''.

■ b. Revise the note to paragraph (a) by removing ''§§ 3.250 to 3.270'' and adding in its place ''§§ 3.250 through 3.270 and §§ 3.278 through 3.279''.

■ c. Revise the heading in paragraph (b) by removing ''*Sections 3.271 to 3.300*'' and adding in its place ''*Sections 3.271 through 3.300*''.

■ 6. Amend § 3.271 by adding paragraph (i) to read as follows:

§ 3.271 Computation of income.

* * * * *

(i) *Waiver of receipt of income.* Potential income that is not excludable under §§ 3.272 or 3.279 but is waived by an individual is included as countable income of the individual. However, if an individual withdraws a claim for Social Security benefits, after a finding of entitlement to those benefits, in order to maintain eligibility for unreduced Social Security benefits upon reaching a particular age, VA will not regard this potential income as having been waived and will therefore not count it.

(Authority: 38 U.S.C. 1503(a))

■ 7. Amend § 3.272 as follows:

■ a. Add a sentence to the end of paragraph (g) introductory text.

■ b. Remove paragraphs (k), (o), (p), (r), (t), (u), (v), and (w).

■ c. Redesignate paragraphs (q), (s), and (x) as paragraphs (o), (p), and (q), respectively.

■ d. Add new paragraphs (k), (r), and (s).

■ e. Revise the authority citation in newly designated paragraph (q).

The additions and revision read as follows:

§ 3.272 Exclusions from income.

* * * * *

(g) *Medical expenses.* * * * For the definition of what constitutes a medical expense, *see* § 3.278, Deductible medical expenses.

* * * * *

(k) *Income from certain annuity payments.* VA will exclude annuity payments and count, on an annual basis, only the interest components of payments if a claimant or beneficiary (or someone acting on his or her behalf) transfers an asset to an annuity principal and either of the following statements is true:

(1) VA has already considered the fair market value of the transferred asset as the claimant's or beneficiary's asset for VA purposes.

(2) The funds used to purchase the annuity were proceeds from the sale of the claimant's or beneficiary's primary residence that was previously excluded as an asset under § 3.275(b)(1), and such funds are not sufficient to cause net worth to exceed the net worth limit under § 3.274(a).

* * * * *

(q) * * *

(Authority: 38 U.S.C. 1503(a)(12))

(r) *Veterans' benefits from states and municipalities.* VA will exclude from income payments from a state or municipality to a veteran of a monetary benefit that is paid as a veterans' benefit due to injury or disease. VA will exclude up to $5,000 of such benefit in any annualization period.

(Authority: 38 U.S.C. 1503(a)(11))

(s) *Other payments.* Other payments excluded from income listed in § 3.279.

■ 8. Revise § 3.274 to read as follows:

§ 3.274 Net worth and VA pension.

(a) *Net worth limit.* For purposes of entitlement to VA pension, the net worth limit effective [*insert effective date of the final rule after publication in the* ***Federal Register***] is [*insert the dollar amount of the maximum community spouse resource allowance for Medicaid purposes on the effective date of the final rule*]. This limit will be increased by the same percentage as the Social Security increase whenever there is a cost-of-living increase in benefit amounts payable under section 215(i) of title II of the Social Security Act (42 U.S.C. 415(i)). VA will publish the current limit on its Web site at [location to be determined].

(b) *When a claimant's or beneficiary's net worth exceeds the limit.* Except as provided in paragraph (h)(2) of this section, VA will deny or discontinue pension if a claimant's or beneficiary's net worth exceeds the net worth limit in paragraph (a) of this section.

(1) *Net worth* means the sum of a claimant's or beneficiary's assets and annual income.

(2) *Asset calculation.* VA will calculate a claimant's or beneficiary's assets under this section and § 3.275.

(3) *Annual income calculation.* VA will calculate a claimant's or beneficiary's annual income under § 3.271, and will include the annual income of dependents as required by law. *See* §§ 3.23(d)(4), 3.23(d)(5), and 3.24 for more information on annual income included when VA calculates a claimant's or beneficiary's pension entitlement rate. In calculating annual income for this purpose, VA will subtract all applicable deductible expenses, to include appropriate prospective medical expenses under § 3.272(g).

(4) *Example of net worth calculation.* A surviving spouse has claimed pension. The applicable maximum annual pension rate is $8,485 and the net worth limit is $117,240. The surviving spouse's annual income is $7,000 and her assets total $116,000. Therefore, adding the spouse's annual income to her assets produces net worth of $123,000. This amount exceeds the net worth limit.

(c) *Assets of other individuals included as claimant's or beneficiary's assets.* (1) *Claimant or beneficiary is a veteran.* A veteran's assets include the assets of the veteran as well as the assets of his or her spouse, if the veteran has a spouse.

(2) *Claimant or beneficiary is a surviving spouse.* A surviving spouse's assets include only the assets of the surviving spouse.

(3) *Claimant or beneficiary is a surviving child.* (i) If a surviving child has no custodian or is in the custody of an institution, the child's assets include only the assets of the child.

(ii) If a surviving child has a custodian other than an institution, the child's assets include the assets of the child as well as the assets of the custodian. If the child is in the joint custody of his or her natural or adoptive parent and a stepparent, the child's assets also include the assets of the stepparent. *See* § 3.57(d) for more information on child custody for pension purposes.

(d) *How a child's net worth affects a veteran's or surviving spouse's pension entitlement.* VA will not consider a child to be a veteran's or surviving spouse's dependent child for pension purposes if the child's net worth exceeds the net worth limit in paragraph (a) of this section.

(1) *Dependent child and potential dependent child.* For the purposes of this section—

(i) ''Dependent child'' refers to a child for whom a veteran or a surviving spouse is entitled to an increased maximum annual pension rate.

(ii) ''Potential dependent child'' refers to a child who is excluded from a veteran's or surviving spouse's pension award solely or partly because of this paragraph (d). References in this section to ''dependent child'' include a potential dependent child.

(2) *Dependent child net worth.* A dependent child's net worth is the sum of his or her annual income and the value of his or her assets.

(3) *Dependent child asset calculation.* VA will calculate the value of a dependent child's assets under this section and § 3.275. A dependent child's assets include the child's assets only.

(4) *Dependent child annual income calculation.* VA will calculate a dependent child's annual income under § 3.271, and will include the annual income of the child as well as the annual income of the veteran or surviving spouse that would be included if VA were calculating a pension entitlement rate for the veteran or surviving spouse.

(e) *When VA calculates net worth.* Except as provided in paragraph (e)(3) of this section, VA calculates net worth only when:

(1) VA has received—

(i) an original pension claim;

(ii) a new pension claim after a period of non-entitlement;

(iii) a request to establish a new dependent; or

(iv) information that a veteran's, surviving spouse's, or child's net worth has increased or decreased; and

(2) The claimant or beneficiary meets the other factors necessary for pension entitlement as provided in § 3.3(a)(3) and (b)(4).

(3) *When VA may calculate net worth.* If the evidence shows that net worth exceeds the net worth limit, VA may decide the pension claim before determining if the claimant meets other entitlement factors. VA will notify the claimant of the entitlement factors that have not been established.

(f) *How net worth decreases.* Net worth may decrease in three ways: assets can decrease, annual income can decrease, or both assets and annual income can decrease.

(1) *How assets decrease.* A veteran, surviving spouse, or child, or someone acting on their behalf, may decrease assets by spending them on the types of expenses provided in paragraph (f)(1)(i) and (ii) of this section. The expenses must be those of the veteran, surviving spouse, or child, or a relative of the veteran, surviving spouse, or child. The relative must be a member or constructive member of the veteran's, surviving spouse's, or child's household.

(i) Basic living expenses such as food, clothing, shelter, or health care; or

(ii) Education or vocational rehabilitation.

(2) *How annual income decreases. See* §§ 3.271 through 3.273.

(3) *How VA treats payment amounts that can decrease either annual income or assets.* When expenses can be considered as either deductible expenses for purposes of calculating annual income under § 3.272 or basic living expenses for purposes of decreasing assets under paragraph (f)(1) of this section, VA will first apply the amounts paid to decrease annual income, using remaining amounts paid to decrease assets if necessary. VA will not deduct the same expenses from both annual income and assets.

(4) *Example 1.* The net worth limit is $114,000 and the maximum annual

pension rate (MAPR) is $12,000. A claimant has assets of $113,000 and annual income of $8,000. Adding annual income to assets produces a net worth of $121,000, which exceeds the net worth limit. The claimant pays unreimbursed medical expenses of $9,000. Unreimbursed medical expenses are deductible from annual income under § 3.272(g) to the extent that they exceed 5 percent of the applicable MAPR. They may also be deducted from assets under paragraph (h)(1) of this section because they are basic living expenses. VA applies the expenditures to annual income first, which decreases annual income to zero. The claimant's net worth is now $113,000; therefore, it is not necessary to apply the expenses to assets.

(5) *Example 2.* The net worth limit is $114,000 and the MAPR is $12,000. A claimant has assets of $113,000 and annual income of $9,500. Adding annual income to assets produces a net worth of $122,500, which exceeds the net worth limit. The claimant pays unreimbursed medical expenses of $9,000. Unreimbursed medical expenses are deductible from annual income under § 3.272(g) to the extent that they exceed 5 percent of the applicable MAPR. In this case, medical expenses that exceed $600 are deductible from income. Medical expenses may also be deducted from assets under paragraph (f)(1) of this section. VA applies the expenditures to annual income first, which decreases annual income to $1,100. This decreases net worth to $114,100, which is still over the limit. VA will then deduct the remaining $600 in medical expenses from assets, bringing net worth to $113,500.

(g) *Effective dates of pension entitlement or increased entitlement after a denial, reduction, or discontinuance based on excessive net worth.* (1) *Scope of paragraph.* This paragraph (g) applies when VA has:

(i) Discontinued pension or denied pension entitlement for a veteran, surviving spouse, or surviving child based on the veteran's, surviving spouse's, or surviving child's excessive net worth; or

(ii) Reduced pension or denied increased pension entitlement for a veteran or surviving spouse based on a dependent child's excessive net worth.

(2) *Effective date of entitlement or increased entitlement.* The effective date of entitlement or increased entitlement is the day net worth ceases to exceed the limit. For this effective date to apply, the claimant or beneficiary must submit a certified statement that net worth has decreased and VA must receive the certified statement before the pension claim has become finally adjudicated under § 3.160. This means that VA must receive the certified statement within 1 year after its decision notice to the claimant concerning the denial, reduction, or discontinuance unless the claimant appeals VA's decision. Otherwise, the effective date is the date VA receives a new pension claim. In accordance with § 3.277(a), VA may require the claimant or beneficiary to submit additional evidence as the individual circumstances may require.

(h) *Reduction or discontinuance of beneficiary's pension entitlement based on excessive net worth.* (1) *Effective date of reduction or discontinuance.* When an increase in a beneficiary's or dependent child's net worth results in a pension reduction or discontinuance because net worth exceeds the limit, the effective date of reduction or discontinuance is the last day of the calendar year in which net worth exceeds the limit.

(2) *Net worth decreases before the effective date.* If net worth decreases to the limit or below the limit before the effective date provided in paragraph (h)(1) of this section, VA will not reduce or discontinue the pension award on the basis of excessive net worth.

(i) *Additional effective-date provisions for dependent children.* (1) *Establishing a dependent child on veteran's or surviving spouse's pension award results in increased pension entitlement.* When establishing a dependent child on a veteran's or surviving spouse's pension award results in increased pension entitlement for the veteran or surviving spouse, VA will apply the effective-date provisions in paragraphs (g) and (h) of this section.

(2) *Establishing a dependent child on veteran's or surviving spouse's pension award results in decreased pension entitlement.* (i) When a dependent child's non-excessive net worth results in decreased pension entitlement for the veteran or surviving spouse, the effective date of the decreased pension entitlement rate (*i.e.,* VA action to add the child to the award) is the end of the year that the child's net worth decreases.

(ii) When a dependent child's excessive net worth results in increased pension entitlement for the veteran or surviving spouse, the effective date of the increased pension entitlement rate (*i.e.,* VA action to remove the child from the award) is the date that VA receives a claim for an increased rate based on the child's net worth increase.

(Authority: 38 U.S.C. 1522, 1543, 5110, 5112)

■ 9. Revise § 3.275 to read as follows:

§ 3.275 How VA determines the asset amount for pension net worth determinations.

(a) *Definitions pertaining to assets.* (1) The term *assets* means the fair market value of all property that an individual owns, including all real and personal property, unless excluded under paragraph (b) of this section, less the amount of mortgages or other encumbrances specific to the mortgaged or encumbered property. VA will consider the terms of the recorded deed or other evidence of title to be proof of ownership of a particular asset. *See also* § 3.276(a)(4), which defines ''fair market value.''

(2) *Claimant.* (i) Except as provided in paragraph (a)(2)(ii) of this section, for the purposes of this section and § 3.276, *claimant* means a pension beneficiary, a dependent spouse, or a dependent or potential dependent child as described in § 3.274(d), as well as a veteran, surviving spouse, or surviving child pension applicant.

(ii) For the purpose of paragraph (b)(1) of this section, *claimant* means a pension beneficiary or applicant who is a veteran, a surviving spouse, or a surviving child.

(3) *Residential lot area.* For purposes of this section, *residential lot area* means the lot on which a residence sits that is similar in size to other residential lots in the vicinity of the residence, but not to exceed 2 acres (87,120 square feet), unless the additional acreage is not marketable.

(b) *Exclusions from assets.* Assets do not include the following:

(1) *The value of a claimant's primary residence (single-family unit*), including the residential lot area, in which the claimant has an ownership interest. VA recognizes one primary residence per claimant. If the residence is sold, any proceeds from the sale is an asset except to the extent the proceeds are used to purchase another residence within the same calendar year as the year in which the sale occurred.

(i) *Personal mortgage not deductible.* VA will not subtract from a claimant's assets the amount of any mortgages or encumbrances on a claimant's primary residence.

(ii) *Claimant not residing in primary residence.* Although rental income counts as annual income as provided in § 3.271(d), VA will not include a claimant's primary residence as an asset even if the claimant resides in any of the following as defined in § 3.278(b):

(A) A nursing home or medical foster home;

(B) An assisted living or similar residential facility that provides custodial care; or

(C) The home of a family member for custodial care.

(2) *Value of personal effects suitable to and consistent with a reasonable mode of life,* such as appliances and family transportation vehicles.

(3) *Radiation Exposure Compensation Act payments.* Payments made under section 6 of the Radiation Exposure Compensation Act of 1990.

(Authority: 42 U.S.C. 2210 (note))

(4) *Ricky Ray Hemophilia Relief Fund payments.* Payments made under section 103(c) and excluded under section 103(h)(2) of the Ricky Ray Hemophilia Relief Fund Act of 1998.

(Authority: 42 U.S.C. 300c–22 (note))

(5) *Energy Employees Occupational Illness Compensation Program payments.* Payments made under the Energy Employees Occupational Illness Compensation Program.

(Authority: 42 U.S.C. 7385e(2))

(6) *Payments to Aleuts.* Payments made to certain Aleuts under 50 U.S.C. App. 1989c–5.

(Authority: 50 U.S.C. App. 1989c–5(d)(2))

(7) *Other payments.* Other payments excluded from net worth listed in § 3.279, which lists statutory exclusions from income and net worth for all VA needs-based benefits.

(Authority: 38 U.S.C. 1522, 1543)

■ 10. Revise § 3.276 to read as follows:

§ 3.276 Asset transfers and penalty periods.

(a) *Asset transfer definitions.* For purposes of this section—

(1) *Claimant* has the same meaning as defined in § 3.275(a)(2)(i).

(2) *Covered asset* means an asset that—

(i) Was part of a claimant's net worth,

(ii) Was transferred for less than fair market value, and

(iii) If not transferred, would have caused or partially caused the claimant's net worth to exceed the net worth limit under § 3.274(a).

(3) *Covered asset amount* means the monetary amount by which a claimant's net worth would have exceeded the limit due to the covered asset alone if the uncompensated value of the covered asset had been included in net worth.

(i) *Example 1.* The net worth limit under § 3.274(a) is $115,920. A claimant's assets total $113,000 and his annual income is zero. However, the claimant transferred $30,000 by giving it to a friend. If the claimant had not transferred the $30,000, his net worth would have been $143,000, which exceeds the net worth limit. The claimant's covered asset amount is $27,080, because this is the amount by which the claimant's net worth would have exceeded the limit due to the covered asset.

(ii) *Example 2.* The net worth limit under § 3.274(a) is $115,920. A claimant's annual income is zero and her total assets are $117,000, which exceeds the net worth limit. In addition, the claimant transferred $30,000 by giving $20,000 to her married son and giving $10,000 to a friend. The claimant's covered asset amount is $30,000 because this is the amount by which the claimant's net worth would have exceeded the limit due to the covered assets alone.

(4) *Fair market value* means the price at which an asset would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. VA will use the best available information to determine fair market value, such as inspections, appraisals, public records, and the market value of similar property if applicable.

(5) *Transfer for less than fair market value* means—

(i) Selling, conveying, gifting, or exchanging an asset for an amount less than the fair market value of the asset, or

(ii) An asset transfer to, or purchase of, any financial instrument or investment that reduces net worth and would not be in the claimant's financial interest but for the claimant's attempt to qualify for VA pension by transferring the asset to, or purchasing, the instrument or investment. Examples of such instruments or investments include—

(A) *Annuities. Annuity* means a financial instrument that provides income over a defined period of time for an initial payment of principal.

(B) *Trusts. Trust* means a legal arrangement by which an individual (the grantor) transfers property to an individual or an entity (the trustee), who manages the property according to the terms of the trust, whether for the grantor's own benefit or for the benefit of another individual.

(6) *Uncompensated value* means the difference between the fair market value of an asset and the amount of compensation an individual receives for it. In the case of a trust, annuity, or other financial instrument or investment described in paragraph (a)(5)(ii) of this section, *uncompensated value* means the amount of money or the monetary value of any other type of asset transferred to such a trust, annuity, or other financial instrument or investment.

(7) *Look-back period* means the 36-month period immediately preceding the date on which VA receives either an original pension claim or a new pension claim after a period of non-entitlement.

(8) *Penalty period* means a period of non-entitlement, calculated under paragraph (e) of this section, due to transfer of a covered asset.

(b) *General statement of policy pertaining to pension and covered assets.* VA pension is a needs-based benefit and is not intended to preserve the estates of individuals who have the means to support themselves. Accordingly, a claimant may not create pension entitlement by transferring covered assets. VA will review the terms and conditions of asset transfers made during the 36-month look-back period to determine whether the transfer constituted transfer of a covered asset. In accordance with § 3.277(b), for any asset transfer, VA may require a claimant to provide evidence such as a Federal income tax return transcript, the terms of a gift, trust, or annuity, or the terms of a recorded deed or other evidence of title.

(c) *Presumption and exception pertaining to covered assets.* In the absence of clear and convincing evidence showing otherwise, VA presumes that an asset transfer made during the look-back period was for the purpose of decreasing net worth to establish pension entitlement and will consider such an asset to be a covered asset. However, VA will not consider such an asset to be a covered asset if the claimant establishes through clear and convincing evidence that he or she transferred the asset as the result of fraud, misrepresentation, or unfair business practice related to the sale or marketing of financial products or services for purposes of establishing entitlement to VA pension. Evidence substantiating the application of this exception may include a complaint contemporaneously filed with state, local, or Federal authorities reporting the incident.

(d) *Exception for transfers to certain trusts.* VA will not consider as a covered asset an asset that a veteran, a veteran's spouse, or a veteran's surviving spouse transfers to a trust established on behalf of a child of the veteran if:

(1) VA rates or has rated the child incapable of self-support under § 3.356; and

(2) There is no circumstance under which distributions from the trust can be used to benefit the veteran, the veteran's spouse, or the veteran's surviving spouse.

(e) *Penalty periods and calculations.* When a claimant transfers a covered asset during the look-back period, VA will assess a penalty period not to exceed 10 years. VA will calculate the length of the penalty period by dividing the total covered asset amount by the monthly penalty rate described in paragraph (e)(1) of this section and rounding the quotient down to the nearest whole number. The result is the number of months for which VA will not pay pension.

(1) *Monthly penalty rate.* The monthly penalty rate is the applicable maximum annual pension rate (MAPR) under 38 U.S.C. 1521(d), 1542(d), or 1543 described in this paragraph (e)(1) that is in effect as of the date of the pension claim, divided by 12, and rounded down to the nearest whole dollar. The MAPRs are located on VA's Web site at *http://www.benefits.va.gov/pension/.*

(i) If the claimant is a veteran or a surviving spouse, the annual rate is the MAPR at the aid and attendance level for a veteran or a surviving spouse with the applicable number of dependents.

(ii) If the claimant is a child, the annual rate is the child alone MAPR.

(2) *Beginning date of penalty period.* When a claimant transfers a covered asset or assets during the look-back period, the penalty period begins on the first day of the month that follows the date of the transfer. If there was more than one transfer, the penalty period will begin on the first day of the month that follows the date of the last transfer.

(3) *Entitlement upon ending of penalty period.* VA will consider that the claimant, if otherwise qualified, is entitled to benefits effective the last day of the last month of the penalty period, with a payment date as of the first day of the following month in accordance with § 3.31.

(4) *Example of penalty period calculation:* VA receives a pension claim in November 2014 The claimant's net worth is equal to the net worth limit. However, the claimant transferred covered assets totaling $10,000 on August 20, 2014, and September 23, 2014. Therefore, the total covered asset amount is $10,000, and the penalty period begins on October 1, 2014. The claimant is a surviving spouse with no dependents, so the applicable MAPR is $13,563, and the monthly penalty rate is $1,130. The penalty period is $10,000/$1,130 per month = 8 months. The eighth month of the penalty period is May 2015. The surviving spouse may be entitled to pension effective May 31, 2015, with a payment date of June 1, 2015, if other entitlement requirements are met.

(5) *Penalty period recalculations.* VA will not recalculate a penalty period under this section unless—

(i) The original calculation is shown to be erroneous; or

(ii) VA receives evidence showing that all covered assets were returned to the claimant before the date of claim or within 30 days after the date of claim. If all covered assets were returned to the claimant, VA will not assess a penalty period. For this exception to apply, VA must receive the evidence not later than 60 days after the date of VA's notice to the claimant of VA's decision concerning the penalty period. Once covered assets are returned, a claimant may reduce net worth under the provisions of § 3.274(f).

(Authority: 38 U.S.C. 1522, 1543, 1506(1))

(The Office of Management and Budget has approved the information collection requirement in this section under control numbers 2900–0001, 2900–0002, 2900–0004, and 2900–0002.)

§ 3.277 [Amended]

■ 11. Amend § 3.277(c)(2) by removing ''shall'' and adding in its place ''may''.

■ 12. Add § 3.278 to read as follows:

§ 3.278 Deductible medical expenses.

(a) *Scope.* This section identifies medical expenses that VA may deduct from countable income for purposes of three of its needs-based programs: Pension, section 306 pension, and parents' dependency and indemnity compensation (DIC). Payments for such medical expenses must be unreimbursed to be deductible from income.

(b) *Definitions.* For the purposes of this section—

(1) *Health care provider* means:

(i) An individual licensed by a state or country to provide health care in the state or country in which the individual provides the health care. The term includes, but is not limited to, a physician, physician assistant, psychologist, chiropractor, registered nurse, licensed vocational nurse, licensed practical nurse, and physical or occupational therapist; and

(ii) A nursing assistant or home health aide who is supervised by a licensed health care provider as defined in paragraph (b)(1)(i) of this section.

(2) *Activities of daily living (ADL)* mean basic self-care activities and consist of bathing or showering, dressing, eating, toileting, and transferring. *Transferring* means an individual's moving himself or herself from one position to another, such as getting in and out of bed.

(3) *Instrumental activities of daily living (IADL)* mean independent living activities, such as shopping, food preparation, housekeeping, laundering, managing finances, handling medications, using the telephone, and transportation for non-medical purposes. Managing finances does not include services rendered by a VA-appointed fiduciary.

(4) *Custodial care* means regular:

(i) Assistance with two or more ADLs, or

(ii) Supervision because an individual with a mental disorder is unsafe if left alone due to the mental disorder.

(5) *Qualified relative* means a veteran's dependent spouse, a veteran's dependent or surviving child, and other relatives of the claimant who are members or constructive members of the claimant's household whose medical expenses are deductible under §§ 3.262(l) or 3.272(g). A ''constructive member'' of a household is an individual who would be a member of the household if the individual were not in a nursing home, away at school, or a similar situation. Qualified relatives do not include claimants who are veterans, surviving spouses, or parents.

(6) *Nursing home* means a facility defined in § 3.1(z)(1) or (2). If the facility is not located in a state, the facility must be licensed in the country in which it is located.

(7) *Medical foster home* means a privately owned residence, recognized and approved by VA under 38 CFR 17.73(d), that offers a non-institutional alternative to nursing home care for veterans who are unable to live alone safely due to chronic or terminal illness.

(8) *Assisted living, adult day care, or similar facility* means a facility that provides individuals with custodial care. The facility may contract with a third-party provider for this purpose. A facility that is residential must be staffed 24 hours per day with custodial care providers. To be included in this definition, a facility must be licensed if such facilities are required to be licensed in the state or country in which the facility is located.

(c) *Medical expenses for VA purposes.* Generally, medical expenses for VA needs-based benefit purposes are payments for items or services that are medically necessary or that improve a disabled individual's functioning. Medical expenses may include, but are not limited to, the payments specified in paragraphs (c)(1) through (7) of this section.

(1) *Care by a health care provider.* Payments to a health care provider for services performed within the scope of the provider's professional capacity are medical expenses. Cosmetic procedures that a health care provider performs to

improve a congenital or accidental deformity or related to treatment for a diagnosed medical condition are medical expenses.

(2) *Medications, medical supplies, medical equipment, and medical food, vitamins, and supplements.* Payments for prescription and non-prescription medication procured lawfully under Federal law, as well as payments for medical supplies or medical equipment are medical expenses. Medically necessary food, vitamins, and supplements as prescribed or directed by a health care provider authorized to write prescriptions are medical expenses.

(3) *Adaptive equipment.* Payments for adaptive devices or service animals, including veterinary care, used to assist a person with an ongoing disability are medical expenses. Medical expenses do not include non-prescription food, boarding, grooming, or other routine expenses of owning an animal.

(4) *Transportation expenses.* Payments for transportation for medical purposes, such as the cost of transportation to and from a health care provider's office by taxi, bus, or other form of public transportation are medical expenses. The cost of transportation for medical purposes by privately owned vehicle (POV), including mileage, parking, and tolls, is a medical expense. For transportation in a POV, VA limits the deductible mileage rate to the current POV mileage reimbursement rate specified by the United States General Services Administration (GSA). The current amount can be obtained from *www.gsa.gov* or on VA's Web site at [location to be determined]. Amounts by which transportation expenses set forth in this paragraph (c)(4) exceed the amounts of other VA or non-VA reimbursements for the expense are medical expenses.

(i) *Example.* In February 2013, a veteran drives 60 miles round trip to a VA medical center and back. The veteran is reimbursed $24.90 from the Veterans Health Administration. The POV mileage reimbursement rate specified by GSA is $0.565 per mile, so the transportation expense is $0.565/mile * 60 miles = $33.90. For VA needs-based benefits purposes, the unreimbursed amount, here, the difference between $33.90 and $24.90 is a medical expense.

(ii) [Reserved]

(5) *Health insurance premiums.* Payments for health, medical, hospitalization, and long-term care insurance premiums are medical expenses. Premiums for Medicare Parts B and D and for long-term care insurance are medical expenses.

(6) *Smoking cessation products.* Payments for items and services specifically related to smoking cessation are medical expenses.

(7) *Institutional forms of care and in-home care.* As provided in paragraph (d) of this section.

(d) *Institutional forms of care and in-home care.* (1) *Hospitals, nursing homes, medical foster homes, and inpatient treatment centers.* Payments to hospitals, nursing homes, medical foster homes, and inpatient treatment centers (including inpatient treatment centers for drug or alcohol addiction), including the cost of meals and lodging charged by such facilities are medical expenses.

(2) *In-home care.* Payments for services provided by an in-home attendant are medical expenses. Payments must be commensurate with the number of hours that the provider attends to the disabled person, and the attendant's hourly rate may not exceed the average hourly rate for home health aides published annually by the MetLife Mature Market Institute in its Market Survey of Long-Term Care Costs. VA will publish the in-home care hourly rate limit on its Web site at [location to be determined].

(i) Except as provided in paragraphs (d)(2)(ii) and (iii) of this section, the attendant must be a health care provider, and only payments for assistance with ADLs or health care services are medical expenses.

(ii) If a veteran or surviving spouse (or parent, for parents' DIC purposes) meets the criteria in § 3.351 for needing regular aid and attendance or being housebound, then—

(A) The attendant does not need to be a health care provider, and

(B) Payments for assistance with IADLs are medical expenses only if the primary responsibility of the attendant is to provide health care services or custodial care. Otherwise, only payments for assistance with health care or custodial care are medical expenses.

(iii) Paragraph (d)(2)(ii) of this section also applies to a qualified relative if a physician or physician assistant states in writing that, due to physical or mental disability, the qualified relative requires the health care services or custodial care that the in-home attendant provides.

(3) *Assisted living, adult day care, and similar facilities.* Certain payments to assisted living, adult day care, and similar facilities are medical expenses. Except as provided in paragraphs (d)(3)(i) and (ii) of this section, only payments for health care services or assistance with ADLs provided by a health care provider are medical expenses.

(i) If a veteran or surviving spouse (or parent for parents' DIC purposes) meets the criteria in § 3.351 for needing regular aid and attendance or being housebound, then—

(A) The care does not need to be provided by a health care provider, and

(B) Medical expenses include all payments to the facility, to include meals and lodging, if the primary reason for the veteran or surviving spouse to be in the facility is to receive health care services or custodial care that the facility provides. Otherwise, only payments for assistance with health care or custodial care are medical expenses.

(ii) Paragraph (d)(3)(i) of this section also applies to a qualified relative if a physician or physician assistant states in writing that, due to mental or physical disability, the qualified relative requires the health care services or custodial care that the facility provides.

(e) *Non-medical expenses for VA purposes.* Payments for items and services listed in paragraphs (e)(1) through (5) of this section are not medical expenses for VA needs-based benefit purposes. The list is not all-inclusive.

(1) *Maintenance of general health.* Payments for items or services that benefit or maintain general health, such as vacations and dance classes, are not medical expenses.

(2) *Cosmetic procedures.* Except as provided in paragraph (c)(1) of this section, cosmetic procedures are not medical expenses.

(3) *Meals and lodging.* Except as provided in paragraph (d) of this section, payments for meals and lodging are not medical expenses. This category includes payments to facilities such as independent living facilities that do not provide health care services or custodial care.

(4) *Assistance with IADLs.* Except as provided in paragraph (d) of this section, payments for assistance with IADLs are not medical expenses.

(5) *VA fiduciary fees.* Fees for VA-appointed fiduciary services are not medical expenses.

CROSS REFERENCES: For the rules governing how medical expenses are deducted, see § 3.272(g) (regarding pension) and § 3.262(l) (regarding section 306 pension and parents' DIC).

(Authority: 38 U.S.C. 501(a), 1315(f)(3), 1503(a)(8), 1506(1))

(The Office of Management and Budget has approved the information collection requirement in this section under control numbers 2900–0001, 2900–0002, 2900–0004, 2900–0161, and 2900–0002.)

■ 13. Add § 3.279 to read as follows:

§ 3.279 Statutory exclusions from income or assets (net worth or corpus of the estate).

(a) *Scope of section.* This section sets forth payments that Federal statutes exclude from income for the purpose of determining entitlement to any VA-administered benefit that is based on financial need. Some of the exclusions also apply to assets (pension), aka, net worth or the corpus of the estate (section 306 pension and parents as dependents for compensation).

Program or payment	Income	Assets (corpus of the estate)	Authority
(b) COMPENSATION OR RESTITUTION PAYMENTS			
(1) *Relocation payments.* Payments to individuals displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.	Excluded	Included	42 U.S.C. 4636.
(2) *Crime victim compensation.* Amounts received as compensation under the Victims of Crime Act of 1984 unless the total amount of assistance received from all federally funded programs is sufficient to fully compensate the claimant for losses suffered as a result of the crime.	Excluded	Excluded	42 U.S.C. 10602(c).
(3) *Restitution to individuals of Japanese ancestry.* Payments made as restitution under Public Law 100–383 to an individual of Japanese ancestry who was interned, evacuated, or relocated during the period of December 7, 1941, through June 30, 1946, pursuant to any law, Executive Order, Presidential proclamation, directive, or other official action respecting these individuals.	Excluded	Excluded	50 U.S.C. App. 1989b–4(f).
(4) *Victims of Nazi persecution.* Payments made to individuals because of their status as victims of Nazi persecution.	Excluded	Excluded	42 U.S.C. 1437a note.
(5) *Agent Orange settlement payments.* Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).	Excluded	Excluded	Sec. 1, Public Law 101–201.
(6) *Chapter 18 benefits.* Allowances paid under 38 U.S.C. chapter 18 to a veteran's child with a birth defect.	Excluded	Excluded	38 U.S.C. 1833(c).
(7) *Flood mitigation activities.* Assistance provided under the National Flood Insurance Act of 1968, as amended.	Excluded	Excluded	42 U.S.C. 4031.
(c) PAYMENTS TO NATIVE AMERICANS			
(1) *Indian Tribal Judgment Fund distributions.* All Indian Tribal Judgment Fund distributions excluded from income and net worth while such funds are held in trust. First $2,000 per year of income received by individual Indians under the Indian Tribal Judgment Funds Use or Distribution Act in satisfaction of a judgment of the United States Court of Federal Claims excluded from income.	Excluded	Excluded	25 U.S.C. 1407.
(2) *Interests of individual Indians in trust or restricted lands.* Interests of individual Indians in trust or restricted lands excluded from net worth. First $2,000 per year of income received by individual Indians that is derived from interests in trust or restricted lands excluded from income.	Excluded	Excluded	25 U.S.C. 1408.
(3) *Per Capita Distributions Act.* First $2,000 per year of per capita distributions to members of a tribe from funds held in trust by the Secretary of the Interior for an Indian tribe. All funds excluded from income and net worth while funds are held in trust.	Excluded	Excluded	25 U.S.C. 117b, 25 U.S.C. 1407.
(4) *Submarginal land.* Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes.	Excluded	Excluded	25 U.S.C. 459e.
(5) *Old Age Assistance Claims Settlement Act.* Up to $2,000 per year of per capita distributions under the Old Age Assistance Claims Settlement Act.	Excluded	Excluded	25 U.S.C. 2307.
(6) *Alaska Native Claims Settlement Act.* Any of the following, if received from a Native Corporation, under the Alaska Native Claims Settlement Act: (i) Cash, including cash dividends on stocks and bonds, up to a maximum of $2,000 per year; (ii) Stock, including stock issued as a dividend or distribution; (iii) Bonds that are subject to the protection under 43 U.S.C. 1606(h) until voluntarily and expressly sold or pledged by the shareholder after the date of distribution; (iv) A partnership interest; (v) Land or an interest in land, including land received as a dividend or distribution on stock; (vi) An interest in a settlement trust.	Excluded	Excluded	43 U.S.C. 1626(c).
(7) *Maine Indian Claims Settlement Act.* Payments received under the Maine Indian Claims Settlement Act of 1980.	Excluded	Excluded	25 U.S.C. 1728.
(8) *Cobell Settlement.* Payments received under *Cobell* v. *Salazar,* Civil Action No. 96–1285 (TFH) (D.D.C.).	Excluded for one year.	Excluded for one year.	Sec. 101, Public Law 111–291.
(d) WORK-RELATED PAYMENTS			
(1) *Workforce investment.* Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. chapter 30).	Excluded	Included	29 U.S.C. 2931(a)(2).
(2) *AmeriCorps participants.* Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990.	Excluded	Included	42 U.S.C. 12637(d).

Program or payment	Income	Assets (corpus of the estate)	Authority
(3) *Volunteer work.* Compensation or reimbursement to volunteers involved in programs administered by the Corporation for National and Community Service, unless the payments are equal to or greater than the minimum wage. The minimum wage is either that under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or that under the law of the state where the volunteers are serving, whichever is greater.	Excluded	Excluded	42 U.S.C. 5044(f).
(e) MISCELLANEOUS PAYMENTS			
(1) *Food stamps.* Value of the allotment provided to an eligible household under the Food Stamp Program.	Excluded	Excluded	7 U.S.C. 2017(b).
(2) *Food for children.* Value of free or reduced-price for food under the Child Nutrition Act of 1966.	Excluded	Excluded	42 U.S.C. 1780(b).
(3) *Child care.* Value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990.	Excluded	Included	42 U.S.C. 9858q.
(4) *Services for housing recipients.* Value of services, but not wages, provided to a resident of an eligible housing project under a congregate services program under the Cranston-Gonzalez National Affordable Housing Act.	Excluded	Included	42 U.S.C. 8011(j)(2).
(5) *Home energy assistance.* The amount of any home energy assistance payments or allowances provided directly to, or indirectly for the benefit of, an eligible household under the Low-Income Home Energy Assistance Act of 1981.	Excluded	Excluded	42 U.S.C. 8624(f).
(6) *Programs for older Americans.* Payments, other than wages or salaries, received from programs funded under the Older Americans Act of 1965, 42 U.S.C. 3001.	Excluded	Included	42 U.S.C. 3020a(b).
(7) *Student financial aid.* Amounts of student financial assistance received under Title IV of the Higher Education Act of 1965, including Federal work-study programs, Bureau of Indian Affairs student assistance programs, or vocational training under the Carl D. Perkins Vocational and Technical Education Act of 1998.	Excluded	Excluded	20 U.S.C. 1087uu, 2414(a).
(8) *Retired Serviceman's Family Protection Plan annuities.* Annuities received under subchapter 1 of the Retired Serviceman's Family Protection Plan.	Excluded	Included	10 U.S.C. 1441.

(Authority: 38 U.S.C. 501(a))

■ 14. Amend § 3.503 by adding paragraph (c) to read as follows:

§ 3.503 Children.

* * * * *

(c) *Medicaid-covered nursing home care (§ 3.551(i)).* (1) Last day of the calendar month in which Medicaid payments begin, last day of the month following 60 days after issuance of a prereduction notice required under § 3.103(b)(2), or the earliest date on which payment may be reduced without creating an overpayment, whichever date is later; or

(2) If the child or the child's custodian willfully conceals information necessary to make the reduction, the last day of the month in which that willful concealment occurred.

(Authority: 38 U.S.C. 501, 1832, 5112(b), 5503(d))

■ 15. Amend § 3.551 by revising paragraph (i) to read as follows:

§ 3.551 Reduction because of hospitalization.

* * * * *

(i) *Certain beneficiaries receiving Medicaid-covered nursing home care.* This paragraph (i) applies to a veteran without a spouse or child, to a surviving spouse without a child, and to a surviving child. Effective November 5, 1990, and terminating on the date provided in 38 U.S.C. 5503(d)(7), if such a beneficiary is receiving Medicaid-covered nursing home care, no pension or survivors pension in excess of $90 per month will be paid to or for the beneficiary for any period after the month in which the Medicaid payments begin. A beneficiary is not liable for any pension paid in excess of the $90 per month by reason of the Secretary's inability or failure to reduce payments, unless that inability or failure is the result of willful concealment by the beneficiary of information necessary to make that reduction.

* * * * *

§ 3.660 [Amended]

■ 16. Amend § 3.660(d) by removing ''§§ 3.263 or 3.274'' and adding in its place ''§ 3.263''.

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